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Bill 53

An Act to provide for the Safety and Welfare of Crown Witnesses in Certain Criminal Proceedings

Mr. Runciman



1st Reading December 2nd, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The Act allows the Attorney General to offer protection, including relocation and a new identity, to Crown witnesses whose lives or safety are jeopardized by their willingness to testify at certain criminal proceedings.

Where the offer of protection is accepted, its terms must be set out in a memorandum of understanding between the witness and the Attorney General. If there is a dispute as to the terms of the memorandum, the matter may be referred to a member of the Criminal Injuries Compensation Board for a hearing and report, including a recommendation for settlement.

Bill 53

1987

An Act to provide for the Safety and Welfare of Crown Witnesses in Certain Criminal Proceedings

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“Board” means the Criminal Injuries Compensation Board continued under the *Compensation for Victims of Crime Act*;

R.S.O. 1980,
c. 82

“Minister” means the Attorney General;

“witness” means a person whom the Crown intends to call or has called as a witness in a criminal proceeding.

2.—(1) Subject to section 3, the Minister may offer to provide protection to a witness whose life or health is likely to be in danger as a result of giving or intending to give testimony in a criminal proceeding.

Minister may
offer
protection to
Crown
witness

(2) The protection provided by the Minister under this Act may include, but is not limited to,

Nature of
protection

- (a) protection for the witness, his or her spouse and children;
- (b) protection before or after the proceedings in which the witness is to testify, or both;
- (c) relocation to any place in Canada or, if necessary, in the United States of America;
- (d) an undertaking to provide a new identity, including a past history and work record;
- (e) temporary or permanent financial assistance; and

- (f) assistance in obtaining employment.

Factors
relating to
offer of
protection

3. Before offering protection to a witness under this Act, the Minister shall consider,

- (a) the seriousness of the offence to which the proceedings in which the witness is to testify relate;
- (b) alternative sources of testimony; and
- (c) the risk of danger to the public as a result of the relocation of the witness.

Memorandum
of
understanding

4.—(1) Where a witness accepts the Minister's offer of protection, the terms of the offer shall be set out in a memorandum to be signed by the witness before the witness testifies in the proceeding.

Idem

(2) A witness is not entitled to protection under this Act until the Minister has received the signed memorandum.

Obligations
of witness

(3) The memorandum shall be in the form approved by the Minister and shall include the witness's agreement, in exchange for protection,

- (a) to testify in the proceeding;
- (b) to take all necessary steps to avoid detection; and
- (c) to abide by all laws.

Dispute as to
terms of
memorandum

5.—(1) Where a dispute arises with respect to the terms of a memorandum, the Minister shall, at the request of the witness, refer the matter to a member of the Board for a hearing to be held *in camera*.

Parties

(2) The witness, the Minister or his or her delegate and any other person added by the Board member shall be parties to the hearing.

Notice

(3) The Board member shall fix a time and place for the hearing and, unless all parties waive notice of the hearing, shall notify the parties at least ten days before the day fixed.

Report

(4) The Board member shall report his or her conclusions, including a recommendation for the settlement of the dispute, to the Minister.

Idem

(5) A copy of the report shall be served on the other parties.

(6) The Minister shall consider the Board member's report and may implement its recommendations. Consideration of report

6. The Minister may disclose the identity or location of a protected witness if, in his or her opinion, the benefit of the disclosure to the person requesting the information outweighs the risk to the witness. Disclosure of witness identity or location

7. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

8. The short title of this Act is the *Crown Witness Protection Act, 1987*. Short title

6

Publication

Bill 54

An Act to amend the Theatres Act

The Hon. W. Wrye

Minister of Consumer and Commercial Relations



1st Reading December 3rd, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 1. The subsections being repealed provide that the Director shall report annually to the Minister. The reporting duties are being transferred to the chairperson.

SECTION 2. Section 3 of the Act currently provides that the Director shall be the chairperson of the Board. The effect of the proposed amendment would be to have a board member, appointed by the Lieutenant Governor in Council, as chairperson who will report annually to the Minister. This is complementary to section 1 of the Bill.

Bill 54

1987

An Act to amend the Theatres Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 2 (3) and (4) of the *Theatres Act*, being chapter 498 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1984, chapter 56, section 2, are repealed.

2. Subsections 3 (1) and (2) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 56, section 3, are repealed and the following substituted therefor:

(1) The board known as the Ontario Film Review Board is continued and shall consist of a chairperson of the Board and such other persons as the Lieutenant Governor in Council may appoint. Board

(2) The Lieutenant Governor in Council may designate one member of the Board as chairperson and one or more members of the Board as a vice-chairperson. Chairperson,
vice-chair-
person

(2a) The chairperson of the Board shall provide the Minister with an annual report on the activities of the Board. Annual
report

(2b) Upon receiving a report under subsection (2a), the Minister shall forthwith lay the report before the Assembly if it is in session or, if not, at the next session. Idem

3. This Act comes into force on the day it receives Royal Assent. Commence-
ment

4. The short title of this Act is the *Theatres Amendment Act*, 1987. Short title

Bill 54

(Chapter 8
Statutes of Ontario, 1988)

An Act to amend the Theatres Act

The Hon. W. Wrye

Minister of Consumer and Commercial Relations



<i>1st Reading</i>	December 3rd, 1987
<i>2nd Reading</i>	December 10th, 1987
<i>3rd Reading</i>	January 7th, 1988
<i>Royal Assent</i>	January 7th, 1988

Bill 54

1987

An Act to amend the Theatres Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 2 (3) and (4) of the *Theatres Act*, being chapter 498 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1984, chapter 56, section 2, are repealed.

2. Subsections 3 (1) and (2) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 56, section 3, are repealed and the following substituted therefor:

(1) The board known as the Ontario Film Review Board is continued and shall consist of a chairperson of the Board and such other persons as the Lieutenant Governor in Council may appoint. Board

(2) The Lieutenant Governor in Council may designate one member of the Board as chairperson and one or more members of the Board as a vice-chairperson. Chairperson, vice-chairperson

(2a) The chairperson of the Board shall provide the Minister with an annual report on the activities of the Board. Annual report

(2b) Upon receiving a report under subsection (2a), the Minister shall forthwith lay the report before the Assembly if it is in session or, if not, at the next session. Idem

3. This Act comes into force on the day it receives Royal Assent. Commencement

4. The short title of this Act is the *Theatres Amendment Act*, 1988. Short title

Bill 55

An Act to amend the Upholstered and Stuffed Articles Act

The Hon. W. Wrye

Minister of Consumer and Commercial Relations



1st Reading December 3rd, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to update the definition of Director, the reference to the Consumer Protection Division being no longer appropriate. The Registrar of Upholstered and Stuffed Articles is replaced by the Director of the Upholstered and Stuffed Articles Branch. The maximum penalties are being increased.

Bill 55

1987

**An Act to amend the
Upholstered and Stuffed Articles Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (1) (b) of the *Upholstered and Stuffed Articles Act*, being chapter 517 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(b) “Director” means the Director of the Upholstered and Stuffed Articles Branch.

(2) Clause 1 (1) (j) of the said Act is repealed.

2. Section 3 of the said Act is repealed and the following substituted therefor:

3. There shall be a Director of the Upholstered and Stuffed Articles Branch who shall be appointed by the Lieutenant Governor in Council to exercise the powers and perform the duties conferred or imposed on the Director under this Act. Director

3.—(1) Subsection 26 (1) of the said Act is amended by striking out “\$500” in the tenth line and inserting in lieu thereof “\$2,000” and by striking out “\$2,000” in the eleventh line and inserting in lieu thereof “\$10,000”.

(2) Subsection 26 (2) of the said Act is amended by striking out “\$500” in the fourth line and inserting in lieu thereof “\$2,000”.

4. Section 27 of the said Act is amended by striking out “\$250” in the fifth line and inserting in lieu thereof “\$1,000”.

5. The said Act and the regulations thereunder are amended by striking out “Registrar” wherever it occurs and inserting in lieu thereof in each instance “Director”.

Commence-
ment

6. This Act comes into force on the day it receives Royal Assent.

Short title

7. The short title of this Act is the *Upholstered and Stuffed Articles Amendment Act, 1987*.

Bill 55

(Chapter 9
Statutes of Ontario, 1988)

An Act to amend the Upholstered and Stuffed Articles Act

The Hon. W. Wrye
Minister of Consumer and Commercial Relations



<i>1st Reading</i>	December 3rd, 1987
<i>2nd Reading</i>	December 10th, 1987
<i>3rd Reading</i>	January 7th, 1988
<i>Royal Assent</i>	January 7th, 1988

Bill 55

1987

**An Act to amend the
Upholstered and Stuffed Articles Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (1) (b) of the *Upholstered and Stuffed Articles Act*, being chapter 517 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(b) “Director” means the Director of the Upholstered and Stuffed Articles Branch.

(2) Clause 1 (1) (j) of the said Act is repealed.

2. Section 3 of the said Act is repealed and the following substituted therefor:

3. There shall be a Director of the Upholstered and Stuffed Articles Branch who shall be appointed by the Lieutenant Governor in Council to exercise the powers and perform the duties conferred or imposed on the Director under this Act. Director

3.—(1) Subsection 26 (1) of the said Act is amended by striking out “\$500” in the tenth line and inserting in lieu thereof “\$2,000” and by striking out “\$2,000” in the eleventh line and inserting in lieu thereof “\$10,000”.

(2) Subsection 26 (2) of the said Act is amended by striking out “\$500” in the fourth line and inserting in lieu thereof “\$2,000”.

4. Section 27 of the said Act is amended by striking out “\$250” in the fifth line and inserting in lieu thereof “\$1,000”.

5. The said Act and the regulations thereunder are amended by striking out “Registrar” wherever it occurs and inserting in lieu thereof in each instance “Director”.

Commence-
ment

6. This Act comes into force on the day it receives Royal Assent.

Short title

7. The short title of this Act is the *Upholstered and Stuffed Articles Amendment Act, 1988*.

Bill 56

An Act to amend the Operating Engineers Act

The Hon. W. Wrye

Minister of Consumer and Commercial Relations



1st Reading December 3rd, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Act currently provides for provisional certificates of qualification to be issued to applicants who qualified for similar certificates in other provinces.

The concept of provisional certificates is being removed but provision is being made for regular certificates to be issued to applicants who qualified in other provinces.

Bill 56 –

1987

An Act to amend the Operating Engineers Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 2 of subsection 15 (1) of the *Operating Engineers Act*, being chapter 363 of the Revised Statutes of Ontario, 1980, is repealed.

2. Section 23 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 42, section 12, is repealed and the following substituted therefor:

23.—(1) The chief officer shall, upon payment of the fee prescribed by the regulations, issue a certificate of qualification to every person who applies therefor and holds a subsisting certificate issued by another province or territory of Canada that qualifies the person to perform the work or duties of an operating engineer or operator in such province or territory. Certificate of qualifications

(2) The certificate of qualification issued under subsection (1) shall be of a class that authorizes the holder of the certificate to perform the work and duties that, in the opinion of the chief officer, the holder is qualified to perform in Ontario having regard to the qualifications prescribed by the regulations for applicants for certificates of qualification. Idem

3.—(1) Clause 37 (b) of the said Act is amended by striking out “and provisional certificates of qualification” in the second and third lines.

(2) Clause 37 (f) of the said Act is repealed and the following substituted therefor:

(f) providing for the issue, renewal and reinstatement of certificates of qualification.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Operating Engineers Amendment Act, 1987*.

Bill 56

(Chapter 10
Statutes of Ontario, 1988)

An Act to amend the Operating Engineers Act

The Hon. W. Wrye
Minister of Consumer and Commercial Relations

<i>1st Reading</i>	December 3rd, 1987
<i>2nd Reading</i>	December 10th, 1987
<i>3rd Reading</i>	January 7th, 1988
<i>Royal Assent</i>	January 7th, 1988



Bill 56

1987

An Act to amend the Operating Engineers Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 2 of subsection 15 (1) of the *Operating Engineers Act*, being chapter 363 of the Revised Statutes of Ontario, 1980, is repealed.

2. Section 23 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 42, section 12, is repealed and the following substituted therefor:

23.—(1) The chief officer shall, upon payment of the fee prescribed by the regulations, issue a certificate of qualification to every person who applies therefor and holds a subsisting certificate issued by another province or territory of Canada that qualifies the person to perform the work or duties of an operating engineer or operator in such province or territory.

Certificate of
qualifications

(2) The certificate of qualification issued under subsection (1) shall be of a class that authorizes the holder of the certificate to perform the work and duties that, in the opinion of the chief officer, the holder is qualified to perform in Ontario having regard to the qualifications prescribed by the regulations for applicants for certificates of qualification.

Idem

3.—(1) Clause 37 (b) of the said Act is amended by striking out “and provisional certificates of qualification” in the second and third lines.

(2) Clause 37 (f) of the said Act is repealed and the following substituted therefor:

(f) providing for the issue, renewal and reinstatement of certificates of qualification.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Operating Engineers Amendment Act, 1988*.

1ST SESSION, 34TH LEGISLATURE, ONTARIO

36 ELIZABETH II, 1987

Bill 57

An Act to amend the Energy Act

Mr. Wildman



<i>1st Reading</i>	December 3rd, 1987
<i>2nd Reading</i>	
<i>3rd Reading</i>	
<i>Royal Assent</i>	

EXPLANATORY NOTE

The purpose of the Bill is to include wood-burning furnaces, stoves and other devices in the definition of an "appliance" and, accordingly, make them subject to regulation under the Act.

Bill 57**1987****An Act to amend the Energy Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (a) of the *Energy Act*, being chapter 139 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(a) “appliance” means,

(i) a furnace, stove or device capable of burning wood, or

(ii) a device that uses a hydrocarbon,

and includes all valves, fittings, controls and components attached or to be attached thereto.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Energy Amendment Act*, 1987. Short title

1ST SESSION, 34TH LEGISLATURE, ONTARIO

36 ELIZABETH II, 1987

Bill 58

An Act to amend the Ministry of Colleges and Universities Act

The Hon. L. McLeod
Minister of Education



<i>1st Reading</i>	December 7th, 1987
<i>2nd Reading</i>	
<i>3rd Reading</i>	
<i>Royal Assent</i>	

EXPLANATORY NOTE

The purpose of the Bill is to extend the student loan guarantee program to students who are enrolled in post-secondary educational institutions outside of Ontario.

Bill 58**1987**

**An Act to amend the
Ministry of Colleges and Universities Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 8 (1) of the *Ministry of Colleges and Universities Act*, being chapter 272 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1987, chapter 33, section 228, is further amended by striking out “in Ontario” in the eighth line.

2. This Act shall be deemed to have come into force on the 1st day of September, 1987. Commence-
ment

3. The short title of this Act is the *Ministry of Colleges and Universities Amendment Act, 1987*. Short title

Bill 58

*(Chapter 11
Statutes of Ontario, 1988)*

An Act to amend the Ministry of Colleges and Universities Act

The Hon. L. McLeod
Minister of Colleges and Universities



<i>1st Reading</i>	December 7th, 1987
<i>2nd Reading</i>	January 7th, 1988
<i>3rd Reading</i>	January 7th, 1988
<i>Royal Assent</i>	January 7th, 1988

Bill 58**1987**

**An Act to amend the
Ministry of Colleges and Universities Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 8 (1) of the *Ministry of Colleges and Universities Act*, being chapter 272 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1987, chapter 33, section 228, is further amended by striking out “in Ontario” in the eighth line.

2. This Act shall be deemed to have come into force on the 1st day of September, 1987. Commence-
ment

3. The short title of this Act is the *Ministry of Colleges and Universities Amendment Act, 1988*. Short title

Bill 59

An Act to amend the Municipal Act and certain other Acts related to municipalities

The Hon. J. Eakins
Minister of Municipal Affairs

1st Reading December 7th, 1987
2nd Reading
3rd Reading
Royal Assent



EXPLANATORY NOTES

Amendments to the *Municipal Act*:

SECTION 1. The proposed amendments to section 51 would alter the procedures for electing a warden by allowing voting by secret ballot, restricting each member of council to one vote and by drawing names to break a tie vote.

SECTION 2. Subsection 78 (3) is repealed as it is redundant.

SECTION 3. At present, the debentures to be redeemed on each anniversary of the date of the debentures are selected by lot by the treasurer of a municipality at a public meeting of the council. The proposed amendment deletes the requirement that the selection by lot be held at a meeting of the council and permits the council to prescribe the manner of making the selection.

SECTION 4. The proposed amendment would ensure that agreements for insurance and reciprocal contracts of indemnity or inter-insurance that provided insurance and protection for a municipality, its employees and local boards do not require O.M.B. approval.

SECTION 5.—Subsection 1. The proposed amendments to section 160 will increase the annual tax payable from \$50 to \$75 per student in respect to a provincial education institution or a post-secondary school, per resident place in respect to a correctional institution and per rated bed in respect of a public hospital or provincial mental health facility.

Subsections 2, 3 and 4. The proposed amendments would delete cross-references to a repealed provision.

SECTION 6. The proposed amendments to section 189 would permit council by by-law to borrow by way of a bankers' acceptance or promissory note. At present, it may only do so by promissory note. The proposed subsection 189 (1) clarifies that municipalities may borrow in respect of all anticipated revenues rather than future taxes alone.

The manner in which a bankers' acceptance or promissory note is to be executed is set out in the new subsections 189 (6) and (6a).

SECTION 7.—Subsection 1. The proposed amendment to paragraph 3 of section 208 would authorize council to contract for municipal insurance through a reciprocal insurance exchange.

Subsections 2 and 3. The proposed amendment to paragraphs 43 and 44 of section 208 would permit council to delegate some of its powers respecting the temporary closing of highways for the purposes listed in the section which now would include the making of movies.

Subsection 4. The new paragraph 50 of section 208 would enable the council to act as an insurer to protect its employees against liability while acting in their capacity as employees. The definition of employee is broadened to include certain persons who provide services to the municipality without remuneration and who are designated by by-law.

Subsection 5. The proposed paragraph 50a sets out criteria for exchanging reciprocal contracts of indemnity with other municipalities.

SECTION 8. Clause (b) of paragraph 96 of section 210 requires fees to be paid by municipal corporations to school boards with respect to children who live in municipally owned trailer camps or parks. The proposed clause (c) exempts municipalities from this requirement if the trailers are liable for assessment and taxation under the *Assessment Act*.

SECTION 9. At present, section 218 permits municipalities to require benefitting property owners to pay for their share of the capital cost of a sewage or water works under-

taking according to the principal and interest cost arising from the debentures issued to finance the works. The proposed amendment removes the present restriction so as to allow municipalities discretion in the method of capital financing while maintaining the ability to charge rates against each ratepayer over a number of years to recover the associated capital costs.

SECTION 10. The re-enactment of subsection 248 (1) and the enactment of subsections (1a), (1b) and (1c) would give the municipality greater authority to contract for insurance or to act as an insurer in respect of protecting the members of council and any local board from liability in the course of their duties.

SECTION 11. The penalty for discharging wastes into sewers would be increased to \$5,000 for the first offence and \$10,000 for any subsequent offence for individuals and \$25,000 and \$50,000, respectively, for corporations.

SECTION 12. Under section 386, a municipality by by-law may provide for the payment of taxes in bulk or by instalment and may allow discounts for early payment of taxes or impose an additional percentage charge for the late payment of taxes. The proposed amendments to subsection 386 (6) extend the time during which a taxpayer may take advantage of these provisions from fourteen to twenty-one days after notice thereof is sent to the taxpayer. In addition, the council of a municipality will be authorized to extend the twenty-one day period.

SECTION 13. Subsections 387 (1) and (2) provide for the collection of overdue taxes by distress. Under the proposed amendments, the tax collector or treasurer will be required to wait at least twenty-one days, instead of the present fourteen days, before distraining.

SECTION 14. This amendment would permit the treasurer to adjust the tax roll where a refund has been granted under section 496a.

SECTION 15. The purpose of the proposed new section 496a is to provide a means whereby municipal councils may approve tax refunds in respect of overpayments made due to clerical errors in the assessment roll.

The period for which application may be made is limited to the two years preceding the date of application. An exception is made in 1988 where the application may also include a refund of the taxes levied in the years 1982, 1983, 1984 and 1985 under certain circumstances as set out in subsection (6).

A hearing by council is required and a decision of council is final.

SECTION 16. The proposed section 498a authorizes the Minister to pay taxes owing to any municipality by tenants of Her Majesty in right of Ontario and to recover all or part of the amount paid from the tenants.

Amendments to the *Municipal Conflict of Interest Act*, 1983:

SECTION 17. Amendments are made to this Act to parallel changes made to the *Municipal Act* respecting municipal insurance.

Amendments to the Regional Municipalities legislation:

SECTIONS 18 to 30. Amendments to each regional municipality Act are made to parallel changes made to the *Municipal Act* respecting the use of bankers' acceptance and respecting the criteria for exchanging reciprocal contracts of indemnity with other municipalities in Ontario.

Bill 59

1987

**An Act to amend the Municipal Act and
certain other Acts related to municipalities**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 51 (3) and (4) of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

(3) Subject to subsection (4) and notwithstanding section 62, the warden shall be elected in the manner provided by by-law passed by council prior to the election. Election of
warden

(4) In the case of an equality of votes for warden, the successful candidate shall be determined by the clerk or presiding member placing the names of the candidates on equal size pieces of paper in a box and one name being drawn by a person chosen by the clerk or presiding member. Tie vote

(5) Notwithstanding anything in this Act, for the purposes of electing the warden, each member of county council shall have one vote. Number of
votes

2. Subsection 78 (3) of the said Act is repealed.

3. Clause 144 (c) of the said Act is amended by striking out “at a public meeting of the council” in the third and fourth lines and inserting in lieu thereof “in such manner as may be prescribed by by-law of the council”.

4. Subsection 149 (2) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 50, section 14, is further amended by adding thereto the following clause:

- (v) agreements for insurance and reciprocal contracts of indemnity or inter-insurance providing insurance and protection under paragraphs 3 and 50 of section 208 and under

1983, c. 8

section 248 of this Act and under section 14 of the *Municipal Conflict of Interest Act*, 1983.

5.—(1) Subsection 160 (1), subsection 160 (3), as amended by the Statutes of Ontario, 1984, chapter 55, section 222, and subsections 160 (4), (5) and (6) of the said Act are amended by striking out “\$50” wherever it occurs and inserting in lieu thereof in each instance “\$75”.

(2) Subsection 160 (8) of the said Act is amended by striking out “(6) or (7)” in the second line and inserting in lieu thereof “or (6)”.

(3) Subsection 160 (9) of the said Act is amended by striking out “(6) or (7)” in the second and third lines and inserting in lieu thereof “or (6)”.

(4) Subsection 160 (11) of the said Act is amended by striking out “(6) or (7)” in the fifth line and inserting in lieu thereof “or (6)”.

6.—(1) Subsection 189 (1) of the said Act is repealed and the following substituted therefor:

Current
borrowings

(1) A council may by by-law either before or after the passing of the by-law for imposing the rates for the current year authorize the head and treasurer to borrow from time to time by way of promissory note or bankers' acceptance such sums as the council considers necessary to meet, until the taxes are collected and other revenues are received, the current expenditures of the corporation for the year, including the amounts required for sinking fund, principal and interest falling due within the year upon any debt of the corporation, school purposes, special rates purposes, and for any board, commission or body and other purposes for which the corporation is required by law to provide.

(2) Subsection 189 (6) of the said Act is repealed and the following substituted therefor:

Execution of
borrowing
instruments

(6) A promissory note or bankers' acceptance made under the authority of this section shall be signed by the treasurer and by the head of the council or by some other person authorized by by-law to sign it.

Idem

(6a) The signature of the head of the council to all promissory notes or bankers' acceptances may be written, engraved, lithographed, printed or otherwise mechanically reproduced and, if such promissory notes or bankers' acceptances are countersigned in writing by the deputy treasurer, the signature

of the treasurer thereon may be written, engraved, lithographed, printed or otherwise mechanically reproduced.

(3) Subsection 189 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

(4) Section 189 of the said Act is amended by adding thereto the following subsections:

(13) Where a municipality raises money by means of a bankers’ acceptance, the municipality shall be deemed to be borrowing money.

Deeming
provision

(14) A bankers’ acceptance authorized under this section,

Bankers’
acceptance

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

R.S.C. 1970,
c. B-5

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

1980-81,
c. 40 (Can.)

(c) may be discounted.

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

Interest on
promissory
note

7.—(1) Paragraph 3 of section 208 of the said Act is repealed and the following substituted therefor:

3. For contracting for insurance, exchanging with other municipalities in Ontario reciprocal contracts of indemnity or inter-insurance in accordance with Part XIII of the *Insurance Act* and for self-insuring, against risks that may involve pecuniary loss or liability on the part of the corporation, and for paying premiums therefor.

Insurance

R.S.O. 1980,
c. 218

(a) Notwithstanding subsections 340 (1) and (2) of the *Insurance Act*, any surplus funds and the reserve fund of a municipal reciprocal exchange may be invested only in such securities as a municipality may invest in under subsection 165 (2).

(b) The moneys raised for a reserve fund of a municipal reciprocal exchange may be expended, pledged or applied to a purpose other than that for which the fund was established if two-thirds of the municipalities that are members of the exchange together with two-thirds of the municipalities that previously were

members of the exchange and that may be subject to claims arising while they were members of the exchange, agree in writing and if section 339 of the *Insurance Act* is complied with.

R.S.O. 1980,
c. 303

- (c) A local board, as defined in the *Municipal Affairs Act*, has the same powers to contract for insurance, to exchange reciprocal contracts of indemnity and to self-insure as are conferred upon the council of a municipality under this paragraph.

(2) Paragraph 43 of the said section 208, as amended by the Statutes of Ontario, 1982, chapter 50, section 23, is further amended by inserting after “thereof” in the fifth line “and for authorizing a committee of council or a municipal officer or servant, subject to such conditions as council may impose, to exercise any of the powers of council under this paragraph”.

(3) Paragraph 44 of the said section 208, exclusive of the clauses, is repealed and the following substituted therefor:

Temporary
closing of
highway

44. For closing to vehicular traffic on a temporary basis for such period as shall be specified in the by-law, any highway under the jurisdiction of the council for such social, recreational, community, athletic or cinematographic purpose, or combination of such purposes, as may be specified in the by-law and for authorizing a committee of council or a municipal officer or servant, subject to such conditions as council may impose, to exercise any of the powers of council under this paragraph.

(4) Paragraph 50 of the said section 208, exclusive of clauses (b) to (d), is repealed and the following substituted therefor:

Liability
insurance,
payment of
damages, etc.
R.S.O. 1980,
c. 218

50. For contracting for insurance and, notwithstanding the *Insurance Act*, enabling the municipality to be or act as an insurer, to protect the employees of the municipality, or any class of such employees, against risks that may involve liability on the part of the employees and for paying premiums therefor or for paying any damages or costs awarded against any of the employees or expenses incurred by them as a result of any action or other proceeding arising out of acts or omissions done or made by them in their capacity as employees including while acting in the performance of any statutory duty or for paying any sum required in connection with the settlement of an action or other proceeding and for assuming the cost of defending the person in such an action or other proceeding.

(a) In this paragraph,

(i) “employee” means any salaried officer, clerk, workman, servant or other person in the employ of the municipality or of a local board and includes,

(A) a member of the police force of the municipality,

(B) persons that provide their services on behalf of the municipality without remuneration, exclusive of reimbursement of expenses or honoraria, if council of the municipality has passed a by-law designating such persons or classes of persons as employees for the purposes of this paragraph, and

(C) any other person or class of person designated as an employee by the Minister,

(ii) “local board” means a local board as defined in the *Municipal Affairs Act*.

R.S.O. 1980,
c. 303

(e) The *Insurance Act* does not apply to a municipality acting as an insurer for the purpose of this paragraph.

R.S.O. 1980,
c. 218

(5) Section 208 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 24, section 9, 1982, chapter 50, section 23 and 1987, chapter 10, section 20, is further amended by adding thereto the following paragraph:

50a. For exchanging with other municipalities in Ontario reciprocal contracts of indemnity or inter-insurance in accordance with Part XIII of the *Insurance Act* for the purpose of protecting the employees of the municipality or any local board thereof, or any class of such employees, against those risks which the corporation may insure or self-insure under paragraph 50.

Reciprocal
contracts of
indemnity
R.S.O. 1980,
c. 218

(a) Notwithstanding subsections 340 (1) and (2) of the *Insurance Act*, any surplus funds and the reserve fund of a municipal reciprocal exchange may be invested only in such securities as a municipality may invest in under subsection 165 (2).

- (b) The moneys raised for a reserve fund of a municipal reciprocal exchange may be expended, pledged or applied to a purpose other than that for which the fund was established if two-thirds of the municipalities that are members of the exchange together with two-thirds of the municipalities that previously were members of the exchange and that may be subject to claims arising while they were members of the exchange, agree in writing and if section 339 of the *Insurance Act* is complied with.
- (c) Clauses (a) to (d) of paragraph 50 apply, with necessary modifications, to the powers conferred by this paragraph.

8. Paragraph 96 of section 210 of the said Act is amended by adding thereto the following clause:

- (c) No fees are payable under clause (b) in respect of a child residing in a trailer if the trailer is liable for assessment and taxation under the *Assessment Act*.

R.S.O. 1980,
c. 31

9.—(1) Clause 218 (1) (b) of the said Act is repealed and the following substituted therefor:

- (b) “capital cost” means the cost of constructing sewage works or water works, inclusive of all items of cost usually and properly chargeable to capital account, and where applicable, the interest amounts payable on the debentures to be issued for the works and the imputed interest costs determined under subsection (2a).

(2) Section 218 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 50, section 25, is further amended by adding thereto the following subsections:

Rate of
interest for
long-term
financing

(2a) Where a by-law passed under subsection (2) specifies that the capital cost of the works is to include the imputed interest cost on money supplied from the funds of the municipality to finance the owners' share of the cost of the works, the rate of interest to be applied, for determining the imputed interest cost shall be the interest rate, as certified in writing by the treasurer, that the municipality would have expected to pay to finance the owners' share of the cost of the work by debentures issued on the day named in the certificate having a schedule of maturity dates that would have coincided with the system of collecting the sewer rates or water works rates as established under clause (19) (a).

(2b) A day named in a certificate under subsection (2a), if it is prior to the day that the by-law specifying the capital cost of the works receives first reading, shall not be earlier than sixty days prior to that first reading.

Date of
certificate

(3) Subsection 218 (9) of the said Act is repealed and the following substituted therefor:

(9) Where debentures are issued in respect of sewage or water works, the revenue derived in any year from a rate imposed under subsection (2) for the capital cost of the works shall be applied and used towards payment of principal and interest due in that year upon the debentures, and the council shall reduce the amount of the debenture rate to be levied for such debentures in any year upon the rateable property liable therefor by the amount of revenue estimated to be derived in that year from the rate imposed under subsection (2).

Revenue
from rates

(9a) The revenue from the sewer rate or water works rate imposed under subsection (2), if not required for payment of principal and interest due as specified in subsection (9), may be credited by the municipality to its general revenues.

Idem

10. Subsection 248 (1) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 8, section 16, is repealed and the following substituted therefor:

(1) The council of every municipality may at any time pass by-laws,

Liability
insurance,
payment of
damages, etc.

(a) for contracting for insurance;

(b) notwithstanding the *Insurance Act*, to enable the municipality to act as an insurer; and

R.S.O. 1980,
c. 218

(c) for exchanging with other municipalities in Ontario reciprocal contracts of indemnity or inter-insurance in accordance with Part XIII of the *Insurance Act*,

for the purpose of protecting the members of the council or of any local board thereof, as defined in the *Municipal Affairs Act*, against risks that may involve liability on the part of the members and for paying premiums therefor or for paying any damages or costs awarded against any such members or expenses incurred by them as a result of any action or other proceeding, except a proceeding brought under the *Municipal Conflict of Interest Act, 1983*, arising out of acts or omissions done or made by them in their capacity as members or officers of the municipality or local board including while acting in the performance of any statutory duty or for paying any sum

R.S.O. 1980,
c. 303

1983, c. 8

required in connection with the settlement of an action or other proceeding and for assuming the cost of defending the member in such an action or other proceeding.

R.S.O. 1980,
c. 218 does
not apply

(1a) The *Insurance Act* does not apply to a municipality acting as an insurer for the purposes of this section.

Investment of
funds

(1b) Notwithstanding subsections 340 (1) and (2) of the *Insurance Act*, any surplus funds and the reserve fund of a municipal reciprocal exchange may be invested only in such securities as a municipality may invest in under subsection 165 (2) of this Act.

Reserve fund

(1c) The moneys raised for a reserve fund of a municipal reciprocal exchange may be expended, pledged or applied to a purpose other than that for which the fund was established if two-thirds of the municipalities that are members of the exchange together with two-thirds of the municipalities that previously were members of the exchange and that may be subject to claims arising while they were members of the exchange agree in writing and if section 339 of the *Insurance Act* is complied with.

R.S.O. 1980,
c. 218

11. The said Act is amended by adding thereto the following section:

Penalties for
contravention
of sewage
by-laws

321b.—(1) Notwithstanding section 321, the council of a municipality may pass by-laws for providing that any person who contravenes a by-law passed by the council that regulates or prohibits the discharge of any matter into a sewage system is guilty of an offence and for providing for the imposition of fines of not more than \$5,000 on every person who is convicted of a first offence and \$10,000 for any subsequent offence under any such by-law.

Corporations

(2) Notwithstanding subsection (1), where a corporation is convicted of an offence under a by-law passed under subsection (1), the maximum penalty that may be imposed upon the corporation is \$25,000 for the first offence and \$50,000 for any subsequent offence.

12. Subsection 386 (6) of the said Act is amended by striking out “fourteen days” in the seventh and eighth lines and inserting in lieu thereof “twenty-one days or such longer period as the council may authorize”.

13.—(1) Subsection 387 (1) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 37, is further amended,

- (a) by striking out “fourteen” in the second line and inserting in lieu thereof “twenty-one”; and
- (b) by inserting after “386” in the fourth line “or where a longer period has been authorized under subsection 386 (6), such taxes remain unpaid at the expiry of that period”.

(2) Subsection 387 (2) of the said Act is amended,

- (a) by striking out “fourteen” in the second line and inserting in lieu thereof “twenty-one”; and
- (b) by inserting after “386” in the fourth line “or where a longer period has been authorized under subsection 386 (6), such taxes remain unpaid at the expiry of that period”.

14. Subsection 495 (2) of the said Act is amended by inserting after “496” in the third line “or 496a”.

15. The said Act is further amended by adding thereto the following section:

496a.—(1) An application to the council for the cancellation, reduction or refund of taxes levied in the years indicated in subsections (5) and (6) may be made by any person who was overcharged by reason of any gross or manifest error in the preparation of the assessment roll that was an error of fact, which may include but is not limited to, clerical errors, the transposition of figures or typographical errors, but not an error in judgment in making the assessment upon which the taxes have been levied.

Reduction of
taxes, etc.,
for clerical
errors

(2) The council may by by-law appoint a committee composed of at least three persons who are members of council or who are eligible to be elected members of council but these persons shall not be employees of the municipality or of a local board as defined in the *Municipal Affairs Act* and the committee shall hear the applications under subsection (13) and section 106 applies thereto.

Delegation to
committee

R.S.O. 1980,
c. 303

(3) An application may be made from the 1st day of March until the 31st day of December of any year, by giving written notice to the clerk of the municipality.

When
application to
be made

(4) Where the Minister of Revenue extends the time for the return of the assessment roll of a municipality under subsection 35 (2) of the *Assessment Act*, an application under this section to the council of that municipality shall not be made

Idem

R.S.O. 1980,
c. 31

earlier than sixty-one days after the assessment roll is returned.

Application,
general

(5) A separate application may be made for taxes levied in each or either of the two years preceding the year in which the application is made if the assessment on the property or business, as the case may be, has not been the subject of an appeal, complaint or application under section 34, 39 or 50 of the *Assessment Act*, in either of those years or in the year in which an application is made under this section, but where an error is made subsequent to all such appeals, complaints or applications under section 34, 39 or 50 of the *Assessment Act*, an application may be made under this section in respect to that error.

Application
in 1988

(6) Notwithstanding subsection (5), separate applications may be made in 1988 for taxes levied in each or any of the years 1982, 1983, 1984 and 1985 if,

- (a) the applicant has advised the municipality of the error before the 31st day of May, 1987; and
- (b) the assessment on the property or business, as the case may be, has not been the subject of an appeal, complaint or application under section 34, 39 or 50 of the *Assessment Act* in any of the years 1982 to 1988, but where an error is made subsequent to all such appeals, complaints or applications under section 34, 39 or 50 of the *Assessment Act*, an application may be made under this section in respect to that error.

Notice of
application

(7) The clerk shall forward a copy of the application to the assessment commissioner and the regional registrar of the Assessment Review Board.

When
application
not valid

(8) An application is not valid and shall not be heard by council unless,

- (a) the application complies with subsection (5) or (6); and
- (b) the assessment commissioner has confirmed an error in the assessment referred to in the application.

Notification
by clerk

(9) Where an application is not valid under subsection (8), the clerk shall notify the applicant in writing and the reasons therefor.

(10) Notice of a hearing by the council under this section shall be given by mail by the clerk of the municipality to the applicant not less than fourteen days before the date upon which the application is to be dealt with by the council.

Notice of
hearing

(11) The council may reject the application or,

Determi-
nation by
council

- (a) if the taxes have not been paid, cancel the whole of the taxes or reduce the taxes;
- (b) if the taxes have been paid in full, order a refund of the whole of the taxes or any part thereof; or
- (c) if the taxes have been paid in part, order a refund of the whole of the taxes paid or any part thereof and reduce or cancel the portion of the taxes unpaid.

(12) The decision of the council is final.

Decision final

(13) The council shall hear and dispose of every application not later than the 30th day of April in the year following the year in which the application is made and the clerk shall thereupon cause notice of the decision to be given by mail to the persons to whom notice of the hearing of the application was given.

Hearing

(14) Notwithstanding subsection (13), where council has appointed a committee to hear applications, the committee shall hear every application before the 31st day of March in the year following the year in which the application is made.

Idem, when
committee
appointed

(15) The clerk shall deliver or mail a copy of the notice of a decision of council to the assessment commissioner, but failure to comply with this subsection does not invalidate the proceedings taken under this section.

Notice of
decision to
assessment
commissioner

(16) The Lieutenant Governor in Council may make regulations prescribing errors that are to be included or excluded as errors of fact under subsection (1).

Regulations

16. The said Act is further amended by adding thereto the following section:

498a.—(1) The Minister may pay taxes due to a municipality by a tenant, as defined in the *Assessment Act*, of land owned by Her Majesty in right of Ontario or in which Her Majesty in right of Ontario has an interest.

Tax
arrangements
for tenants of
provincial
government
R.S.O. 1980,
c. 31

Idem

(2) Where the Minister pays the taxes due in any year on behalf of a tenant under subsection (1) in respect of land occupied by the tenant and the municipality accepts the payment, all future notices of taxes due to the municipality in respect of the tenant's occupancy of the land shall be sent to the Minister and not to the tenant.

Tenant's
responsibility

(3) Where the Minister pays taxes on behalf of a tenant under subsection (1), the tenant ceases to be liable to the municipality for the taxes due but the Minister may recover the amount of the taxes in whole or in part from the tenant and the amount billed to a tenant by the Minister under this subsection shall be deemed to be a debt of the tenant owing to Her Majesty in right of Ontario.

Amount
deemed to
be taxes

(4) An amount received by a municipality under subsection (1) shall be treated in the same manner as if paid as taxes by the tenant.

17. Subsection 14 (1) of the *Municipal Conflict of Interest Act, 1983*, being chapter 8, is repealed and the following substituted therefor:

Insurance
R.S.O. 1980,
c. 302

(1) Notwithstanding section 248 of the *Municipal Act*, the council of every municipality may at any time pass by-laws,

(a) for contracting for insurance;

R.S.O. 1980,
c. 218

(b) notwithstanding the *Insurance Act*, to enable the municipality to act as an insurer; and

R.S.O. 1980,
c. 218

(c) for exchanging with other municipalities in Ontario reciprocal contracts of indemnity or inter-insurance in accordance with Part XIII of the *Insurance Act*,

to protect a member of the council or of any local board thereof who has been found not to have contravened section 5, against any costs or expenses incurred by the member as a result of a proceeding brought under this Act, and for paying on behalf of or reimbursing the member for any such costs or expenses.

R.S.O. 1980,
c. 218 does
not apply

(1a) The *Insurance Act* does not apply to a municipality acting as an insurer for the purposes of subsection (1).

Surplus funds

(1b) Notwithstanding subsections 340 (1) and (2) of the *Insurance Act*, any surplus funds and the reserve fund of a municipal reciprocal exchange may be invested only in such securities as a municipality may invest in under subsection

R.S.O. 1980,
c. 302

165 (2) of the *Municipal Act*.

(1c) The moneys raised for a reserve fund of a municipal reciprocal exchange may be expended, pledged or applied to a purpose other than that for which the fund was established if two-thirds of the municipalities that are members of the exchange together with two-thirds of the municipalities that previously were members of the exchange and that may be subject to claims arising while they were members of the exchange agree in writing and if section 339 of the *Insurance Act* is complied with.

Reserve
funds

18.—(1) Subsection 83 (1) of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, is amended by inserting after “note” in the fifth line “or bankers’ acceptance”.

(2) Subsection 83 (5) of the said Act is repealed and the following substituted therefor:

(5) A promissory note or bankers’ acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

Execution of
borrowing
instruments

(3) Subsection 83 (6) of the said Act is amended by inserting after “notes” in the second line and in the fourth line in each instance “or bankers’ acceptances” and by inserting after “note” in the fifth line “or bankers’ acceptance”.

(4) Subsection 83 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

(5) Section 83 of the said Act is amended by adding thereto the following subsections:

(13) For the purposes of this section, where the District Corporation raises money by means of a bankers’ acceptance, the District Corporation shall be deemed to be borrowing money.

Deeming
provision

(14) A bankers’ acceptance authorized under this section,

Bankers’
acceptance

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

R.S.C. 1970,
c. B-5

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

1980-81,
c. 40 (Can.)

(c) may be discounted.

Interest on
promissory
note

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

(6) Subsection 108 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 48, section 9, is amended by inserting after "50" in the third line "50a".

19.—(1) Subsection 222 (1) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is amended by inserting after "note" in the fifth line "or bankers' acceptance".

(2) Subsection 222 (6) of the said Act is repealed and the following substituted therefor:

Execution of
borrowing
instruments

(6) A promissory note or bankers' acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

(3) Subsection 222 (7) of the said Act is amended by inserting after "notes" in the second line and in the fourth line in each instance "or bankers' acceptances" and by inserting after "note" in the fifth line "or bankers' acceptance".

(4) Subsection 222 (9) of the said Act is amended by striking out "sealed with the corporate seal and" in the second line.

(5) Section 222 of the said Act is amended by adding thereto the following subsections:

Deeming
provision

(14) For the purposes of this section, where the Metropolitan Corporation raises money by means of a bankers' acceptance, the Metropolitan Corporation shall be deemed to be borrowing money.

Bankers'
acceptance

(15) A bankers' acceptance authorized under this section,

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

R.S.C. 1970
c. B-5

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

1980-81,
c. 40 (Can.)

(c) may be discounted.

Interest on
promissory
note

(16) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as

may be borrowed thereon from the time when such money is actually lent.

(6) Subsection 245 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 18, section 17, is amended by inserting after “50” in the third line “50a”.

20.—(1) Subsection 92 (1) of the *County of Oxford Act*, being chapter 365 of the Revised Statutes of Ontario, 1980, is amended by inserting after “note” in the fifth line “or bankers’ acceptance”.

(2) Subsection 92 (5) of the said Act is repealed and the following substituted therefor:

(5) A promissory note or bankers’ acceptance made under the authority of this section shall be signed by the warden or by some other person authorized by by-law to sign it and by the treasurer.

Execution of
borrowing
instruments

(3) Subsection 92 (6) of the said Act is amended by inserting after “notes” in the second line and in the fourth line in each instance “or bankers’ acceptances” and by inserting after “note” in the fifth line “or bankers’ acceptance”.

(4) Subsection 92 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

(5) Section 92 of the said Act is amended by adding thereto the following subsections:

(13) For the purposes of this section, where the County raises money by means of a bankers’ acceptance, the County shall be deemed to be borrowing money.

Deeming
provision

(14) A bankers’ acceptance authorized under this section,

Bankers’
acceptance

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

R.S.C. 1970,
c. B-5

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

1980-81,
c. 40 (Can.)

(c) may be discounted.

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

Interest on
promissory
note

(6) Subsection 117 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 66, section 6, is amended by inserting after “50” in the fifth line “50a”.

21.—(1) Subsection 104 (1) of the *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, is amended by inserting after “note” in the fifth line “or bankers’ acceptance”.

(2) Subsection 104 (5) of the said Act is repealed and the following substituted therefor:

Execution of
borrowing
instruments

(5) A promissory note or bankers’ acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

(3) Subsection 104 (6) of the said Act is amended by inserting after “notes” in the second line and in the fourth line in each instance “or bankers’ acceptances” and by inserting after “note” in the fifth line “or bankers’ acceptance”.

(4) Subsection 104 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

(5) Section 104 of the said Act is amended by adding thereto the following subsections:

Deeming
provision

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers’ acceptance, the Regional Corporation shall be deemed to be borrowing money.

Bankers’
acceptance

(14) A bankers’ acceptance authorized under this section,

R.S.C. 1970,
c. B-5

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

1980-81,
c. 40 (Can.)

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

(c) may be discounted.

Interest on
promissory
note

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

(6) Subsection 129 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 5 and amended

by the Statutes of Ontario, 1987, chapter 22, section 1, is further amended by inserting after “50” in the fifth line “50a”.

22.—(1) Subsection 86 (1) of the *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised Statutes of Ontario, 1980, is amended by inserting after “note” in the fifth line “or bankers’ acceptance”.

(2) Subsection 86 (5) of the said Act is repealed and the following substituted therefor:

(5) A promissory note or bankers’ acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

Execution of
borrowing
instruments

(3) Subsection 86 (6) of the said Act is amended by inserting after “notes” in the second line and in the fourth line in each instance “or bankers’ acceptances” and by inserting after “note” in the fifth line “or bankers’ acceptance”.

(4) Subsection 86 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

(5) Section 86 of the said Act is amended by adding thereto the following subsections:

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers’ acceptance, the Regional Corporation shall be deemed to be borrowing money.

Deeming
provision

(14) A bankers’ acceptance authorized under this section,

Bankers’
acceptance

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

R.S.C. 1970,
c. B-5

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

1980-81,
c. 40 (Can.)

(c) may be discounted.

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

Interest on
promissory
note

(6) Subsection 111 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 12 and amended

by the Statutes of Ontario, 1987, chapter 22, section 2, is further amended by inserting after "50" in the fifth line "50a".

23.—(1) Subsection 97 (1) of the *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, is amended by inserting after "note" in the fifth line "or bankers' acceptance".

(2) Subsection 97 (5) of the said Act is repealed and the following substituted therefor:

Execution of
borrowing
instruments

(5) A promissory note or bankers' acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

(3) Subsection 97 (6) of the said Act is amended by inserting after "notes" in the second line and in the fourth line in each instance "or bankers' acceptances" and by inserting after "note" in the fifth line "or bankers' acceptance".

(4) Subsection 97 (8) of the said Act is amended by striking out "sealed with the corporate seal and" in the second line.

(5) Section 97 of the said Act is amended by adding thereto the following subsections:

Deeming
provision

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers' acceptance, the Regional Corporation shall be deemed to be borrowing money.

Bankers'
acceptance

(14) A bankers' acceptance authorized under this section,

R.S.C. 1970,
c. B-5

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

1980-81,
c. 40 (Can.)

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

(c) may be discounted.

Interest on
promissory
note

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

(6) Subsection 122 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 17 and amended

by the Statutes of Ontario, 1987, chapter 22, section 3, is further amended by inserting after “50” in the fifth line “50a”.

24.—(1) Subsection 108 (1) of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, is amended by inserting after “note” in the fifth line “or bankers’ acceptance”.

(2) Subsection 108 (5) of the said Act is repealed and the following substituted therefor:

(5) A promissory note or bankers’ acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

Execution of
borrowing
instruments

(3) Subsection 108 (6) of the said Act is amended by inserting after “notes” in the second line and in the fourth line in each instance “or bankers’ acceptances” and by inserting after “note” in the fifth line “or bankers’ acceptance”.

(4) Subsection 108 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

(5) Section 108 of the said Act is amended by adding thereto the following subsections:

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers’ acceptance, the Regional Corporation shall be deemed to be borrowing money.

Deeming
provision

(14) A bankers’ acceptance authorized under this section,

Bankers’
acceptance

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

R.S.C. 1970,
c. B-5

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

1980-81,
c. 40 (Can.)

(c) may be discounted.

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

Interest on
promissory
note

(6) Subsection 133 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 46, section 4 and amended

by the Statutes of Ontario, 1987, chapter 22, section 4, is further amended by inserting after "50" in the fifth line "50a".

25.—(1) Subsection 137 (1) of the *Regional Municipality of Niagara Act*, being chapter 438 of the Revised Statutes of Ontario, 1980, is amended by inserting after "note" in the fifth line "or bankers' acceptance".

(2) Subsection 137 (5) of the said Act is repealed and the following substituted therefor:

Execution of
borrowing
instruments

(5) A promissory note or bankers' acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the financial officer.

(3) Subsection 137 (6) of the said Act is amended by inserting after "notes" in the second line and in the fourth line in each instance "or bankers' acceptances" and inserting after "note" in the fifth line "or bankers' acceptance".

(4) Subsection 137 (8) of the said Act is amended by striking out "sealed with the corporate seal and" in the second line.

(5) Section 137 of the said Act is amended by adding thereto the following subsections:

Deeming
provision

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers' acceptance, the Regional Corporation shall be deemed to be borrowing money.

Bankers'
acceptance

(14) A bankers' acceptance authorized under this section,

R.S.C. 1970,
c. B-5

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

1980-81,
c. 40 (Can.)

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

(c) may be discounted.

Interest on
promissory
note

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

(6) Subsection 161 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 31 and amended

by the Statutes of Ontario, 1987, chapter 22, section 5, is further amended by inserting after "50" in the fifth line "50a".

26.—(1) Subsection 128 (1) of the *Regional Municipality of Ottawa-Carleton Act*, being chapter 439 of the Revised Statutes of Ontario, 1980, is amended by inserting after "note" in the fifth line "or bankers' acceptance".

(2) Subsection 128 (5) of the said Act is repealed and the following substituted therefor:

(5) A promissory note or bankers' acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

Execution of
borrowing
instruments

(3) Subsection 128 (6) of the said Act is amended by inserting after "notes" in the second line and in the fourth line in each instance "or bankers' acceptances" and by inserting after "note" in the fifth line "or bankers' acceptance".

(4) Subsection 128 (8) of the said Act is amended by striking out "sealed with the corporate seal and" in the second line.

(5) Section 128 of the said Act is amended by adding thereto the following subsections:

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers' acceptance, the Regional Corporation shall be deemed to be borrowing money.

Deeming
provision

(14) A bankers' acceptance authorized under this section,

Bankers'
acceptance

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

R.S.C. 1970,
c. B-5

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

1980-81,
c. 40 (Can.)

(c) may be discounted.

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

Interest on
promissory
note

(6) Subsection 163 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 35 and amended

by the Statutes of Ontario, 1987, chapter 22, section 6, is further amended by inserting after “50” in the third line “50a”.

27.—(1) Subsection 92 (1) of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, is amended by inserting after “note” in the fifth line “or bankers’ acceptance”.

(2) Subsection 92 (5) of the said Act is repealed and the following substituted therefor:

Execution of
borrowing
instruments

(5) A promissory note or bankers’ acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

(3) Subsection 92 (6) of the said Act is amended by inserting after “notes” in the second line and in the fourth line in each instance “or bankers’ acceptances” and by inserting after “note” in the fifth line “or bankers’ acceptance”.

(4) Subsection 92 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

(5) Section 92 of the said Act is amended by adding thereto the following subsections:

Deeming
provision

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers’ acceptance, the Regional Corporation shall be deemed to be borrowing money.

Bankers’
acceptance

(14) A bankers’ acceptance authorized under this section,

R.S.C. 1970,
c. B-5

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

1980-81,
c. 40 (Can.)

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

(c) may be discounted.

Interest on
promissory
note

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

(6) Subsection 117 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 41 and amended

by the Statutes of Ontario, 1987, chapter 22, section 7, is further amended by inserting after “50” in the fifth line “50a”.

28.—(1) Subsection 79 (1) of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is amended by inserting after “note” in the fifth line “or bankers’ acceptance”.

(2) Subsection 79 (5) of the said Act is repealed and the following substituted therefor:

(5) A promissory note or bankers’ acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

Execution of
borrowing
instruments

(3) Subsection 79 (6) of the said Act is amended by inserting after “notes” in the second line and in the fourth line in each instance “or bankers’ acceptances” and by inserting after “note” in the fifth line “or bankers’ acceptance”.

(4) Subsection 79 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

(5) Section 79 of the said Act is amended by adding thereto the following subsections:

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers’ acceptance, the Regional Corporation shall be deemed to be borrowing money.

Deeming
provision

(14) A bankers’ acceptance authorized under this section,

Bankers’
acceptance

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

R.S.C. 1970,
c. B-5

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

1980-81,
c. 40 (Can.)

(c) may be discounted.

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

Interest on
promissory
note

(6) Subsection 103 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 48 and amended

by the Statutes of Ontario, 1987, chapter 22, section 8, is further amended by inserting after "50" in the third line "50a".

29.—(1) Subsection 126 (1) of the *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, is amended by inserting after "note" in the fifth line "or bankers' acceptance".

(2) Subsection 126 (5) of the said Act is repealed and the following substituted therefor:

Execution of
borrowing
instruments

(5) A promissory note or bankers' acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

(3) Subsection 126 (6) of the said Act is amended by inserting after "notes" in the second line and in the fourth line in each instance "or bankers' acceptances" and by inserting after "note" in the fifth line "or bankers' acceptance".

(4) Subsection 126 (8) of the said Act is amended by striking out "sealed with the corporate seal and" in the second line.

(5) Section 126 of the said Act is amended by adding thereto the following subsections:

Deeming
provision

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers' acceptance, the Regional Corporation shall be deemed to be borrowing money.

Bankers'
acceptance

(14) A bankers' acceptance authorized under this section,

R.S.C. 1970,
c. B-5

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

1980-81,
c. 40 (Can.)

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

(c) may be discounted.

Interest on
promissory
note

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

(6) Subsection 151 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 54 and amended

by the Statutes of Ontario, 1987, chapter 22, section 9, is further amended by inserting after “50” in the third line “50a”.

30.—(1) Subsection 129 (1) of the *Regional Municipality of York Act*, being chapter 443 of the Revised Statutes of Ontario, 1980, is amended by inserting after “note” in the fifth line “or bankers’ acceptance”.

(2) Subsection 129 (5) of the said Act is repealed and the following substituted therefor:

(5) A promissory note or bankers’ acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the financial officer.

Execution of
borrowing
instruments

(3) Subsection 129 (6) of the said Act is amended by inserting after “notes” in the second line and in the fourth line in each instance “or bankers’ acceptances” and by inserting after “note” in the fifth line “or bankers’ acceptance”.

(4) Subsection 129 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

(5) Section 129 of the said Act is amended by adding thereto the following subsections:

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers’ acceptance, the Regional Corporation shall be deemed to be borrowing money.

Deeming
provision

(14) A bankers’ acceptance authorized under this section,

Bankers’
acceptance

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

R.S.C. 1970,
c. B-5

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

1980-81,
c. 40 (Can.)

(c) may be discounted.

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

Interest on
promissory
note

(6) Subsection 153 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 59 and amended

by the Statutes of Ontario, 1987, chapter 22, section 10, is further amended by inserting after "50" in the third line "50a".

Commence-
ment

31.—(1) This Act, except sections 5, 8, 12, 13, 14, 15 and 16, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 5, 8 and 16 shall be deemed to have come into force on the 1st day of January, 1987.

Idem

(3) Sections 12 and 13 come into force on the 1st day of January, 1988.

Idem

(4) Sections 14 and 15 come into force on the 1st day of March, 1988.

Short title

32. The short title of this Act is the *Municipal Statute Law Amendment Act, 1987*.

Bill 59

An Act to amend the Municipal Act and certain other Acts related to municipalities

The Hon. J. Eakins
Minister of Municipal Affairs

<i>1st Reading</i>	December 7th, 1987
<i>2nd Reading</i>	June 1st, 1988
<i>3rd Reading</i>	
<i>Royal Assent</i>	

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

Amendments to the *Municipal Act*:

SECTION 1. The proposed amendments to section 51 would alter the procedures for electing a warden by allowing voting by secret ballot, restricting each member of council to one vote and by drawing names to break a tie vote.

SECTION 2. Subsection 78 (3) is repealed as it is redundant.

SECTION 3. At present, the debentures to be redeemed on each anniversary of the date of the debentures are selected by lot by the treasurer of a municipality at a public meeting of the council. The proposed amendment deletes the requirement that the selection by lot be held at a meeting of the council and permits the council to prescribe the manner of making the selection.

SECTION 4. The proposed amendment would ensure that agreements for insurance and reciprocal contracts of indemnity or inter-insurance that provided insurance and protection for a municipality, its employees and local boards do not require O.M.B. approval.

SECTION 5.—Subsection 1. The proposed amendments to section 160 will increase the annual tax payable from \$50 to \$75 per student in respect to a provincial education institution or a post-secondary school, per resident place in respect to a correctional institution and per rated bed in respect of a public hospital or provincial mental health facility.

Subsections 2, 3 and 4. The proposed amendments would delete cross-references to a repealed provision.

SECTION 6. The proposed amendments to section 189 would permit council by by-law to borrow by way of a bankers' acceptance or promissory note. At present, it may only do so by promissory note. The proposed subsection 189 (1) clarifies that municipalities may borrow in respect of all anticipated revenues rather than future taxes alone.

The manner in which a bankers' acceptance or promissory note is to be executed is set out in the new subsections 189 (6) and (6a).

SECTION 7.—Subsection 1. The proposed amendment to paragraph 3 of section 208 would authorize council to contract for municipal insurance through a reciprocal insurance exchange.

Subsections 2 and 3. The proposed amendment to paragraphs 43 and 44 of section 208 would permit council to delegate some of its powers respecting the temporary closing of highways for the purposes listed in the section which now would include the making of movies.

Subsection 4. The new paragraph 50 of section 208 would enable the council to act as an insurer to protect its employees against liability while acting in their capacity as employees. The definition of employee is broadened to include certain persons who provide services to the municipality without remuneration and who are designated by by-law.

Subsection 5. The proposed paragraph 50a sets out criteria for exchanging reciprocal contracts of indemnity with other municipalities.

SECTION 8. Clause (b) of paragraph 96 of section 210 requires fees to be paid by municipal corporations to school boards with respect to children who live in municipally owned trailer camps or parks. The proposed clause (c) exempts municipalities from this requirement if the trailers are liable for assessment and taxation under the *Assessment Act*.

SECTION 9. At present, section 218 permits municipalities to require benefitting property owners to pay for their share of the capital cost of a sewage or water works under-

taking according to the principal and interest cost arising from the debentures issued to finance the works. The proposed amendment removes the present restriction so as to allow municipalities discretion in the method of capital financing while maintaining the ability to charge rates against each ratepayer over a number of years to recover the associated capital costs.

SECTION 10. The re-enactment of subsection 248 (1) and the enactment of subsections (1a), (1b) and (1c) would give the municipality greater authority to contract for insurance or to act as an insurer in respect of protecting the members of council and any local board from liability in the course of their duties.

SECTION 11. The penalty for discharging wastes into sewers would be increased to \$5,000 for the first offence and \$10,000 for any subsequent offence for individuals and \$25,000 and \$50,000, respectively, for corporations.

SECTION 12. Under section 386, a municipality by by-law may provide for the payment of taxes in bulk or by instalment and may allow discounts for early payment of taxes or impose an additional percentage charge for the late payment of taxes. The proposed amendments to subsection 386 (6) extend the time during which a taxpayer may take advantage of these provisions from fourteen to twenty-one days after notice thereof is sent to the taxpayer. In addition, the council of a municipality will be authorized to extend the twenty-one day period.

SECTION 13. Subsections 387 (1) and (2) provide for the collection of overdue taxes by distress. Under the proposed amendments, the tax collector or treasurer will be required to wait at least twenty-one days, instead of the present fourteen days, before distraining.

SECTION 14. This amendment would permit the treasurer to adjust the tax roll where a refund has been granted under section 496a.

SECTION 15. The purpose of the proposed new section 496a is to provide a means whereby municipal councils may approve tax refunds in respect of overpayments made due to clerical errors in the assessment roll.

The period for which application may be made is limited to the two years preceding the date of application. An exception is made in 1988 where the application may also include a refund of the taxes levied in the years 1982, 1983, 1984 and 1985 under certain circumstances as set out in subsection (6).

A hearing by council is required and a decision of council is final.

SECTION 16. The proposed section 498a authorizes the Minister to pay taxes owing to any municipality by tenants of Her Majesty in right of Ontario and to recover all or part of the amount paid from the tenants.

Amendments to the *Municipal Conflict of Interest Act*, 1983:

SECTION 17. Amendments are made to this Act to parallel changes made to the *Municipal Act* respecting municipal insurance.

Amendments to the Regional Municipalities legislation:

SECTIONS 18 to 30. Amendments to each regional municipality Act are made to parallel changes made to the *Municipal Act* respecting the use of bankers' acceptance and respecting the criteria for exchanging reciprocal contracts of indemnity with other municipalities in Ontario.

Bill 59

1987

**An Act to amend the Municipal Act and
certain other Acts related to municipalities**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 51 (3) and (4) of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

(3) Subject to subsection (4) and notwithstanding section 62, the warden shall be elected in the manner provided by by-law passed by council prior to the election. Election of
warden

(4) In the case of an equality of votes for warden, the successful candidate shall be determined by the clerk or presiding member placing the names of the candidates on equal size pieces of paper in a box and one name being drawn by a person chosen by the clerk or presiding member. Tie vote

(5) Notwithstanding anything in this Act, for the purposes of electing the warden, each member of county council shall have one vote. Number of
votes

2. Subsection 78 (3) of the said Act is repealed.

3. Clause 144 (c) of the said Act is amended by striking out “at a public meeting of the council” in the third and fourth lines and inserting in lieu thereof “in such manner as may be prescribed by by-law of the council”.

4. Subsection 149 (2) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 50, section 14, is further amended by adding thereto the following clause:

- (v) agreements for insurance and reciprocal contracts of indemnity or inter-insurance providing insurance and protection under paragraphs 3 and 50 of section 208 and under

1983, c. 8

section 248 of this Act and under section 14 of the *Municipal Conflict of Interest Act*, 1983.

5.—(1) Subsection 160 (1), subsection 160 (3), as amended by the Statutes of Ontario, 1984, chapter 55, section 222, and subsections 160 (4), (5) and (6) of the said Act are amended by striking out “\$50” wherever it occurs and inserting in lieu thereof in each instance “\$75”.

(2) Subsection 160 (8) of the said Act is amended by striking out “(6) or (7)” in the second line and inserting in lieu thereof “or (6)”.

(3) Subsection 160 (9) of the said Act is amended by striking out “(6) or (7)” in the second and third lines and inserting in lieu thereof “or (6)”.

(4) Subsection 160 (11) of the said Act is amended by striking out “(6) or (7)” in the fifth line and inserting in lieu thereof “or (6)”.

6.—(1) Subsection 189 (1) of the said Act is repealed and the following substituted therefor:

Current
borrowings

(1) A council may by by-law either before or after the passing of the by-law for imposing the rates for the current year authorize the head and treasurer to borrow from time to time by way of promissory note or bankers' acceptance such sums as the council considers necessary to meet, until the taxes are collected and other revenues are received, the current expenditures of the corporation for the year, including the amounts required for sinking fund, principal and interest falling due within the year upon any debt of the corporation, school purposes, special rates purposes, and for any board, commission or body and other purposes for which the corporation is required by law to provide.

(2) Subsection 189 (6) of the said Act is repealed and the following substituted therefor:

Execution of
borrowing
instruments

(6) A promissory note or bankers' acceptance made under the authority of this section shall be signed by the treasurer and by the head of the council or by some other person authorized by by-law to sign it.

Idem

(6a) The signature of the head of the council to all promissory notes or bankers' acceptances may be written, engraved, lithographed, printed or otherwise mechanically reproduced and, if such promissory notes or bankers' acceptances are countersigned in writing by the deputy treasurer, the signature

of the treasurer thereon may be written, engraved, lithographed, printed or otherwise mechanically reproduced.

(3) Subsection 189 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

(4) Section 189 of the said Act is amended by adding thereto the following subsections:

(13) Where a municipality raises money by means of a bankers' acceptance, the municipality shall be deemed to be borrowing money. Deeming provision

(14) A bankers' acceptance authorized under this section, Bankers' acceptance

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada); R.S.C. 1970, c. B-5

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and 1980-81, c. 40 (Can.)

(c) may be discounted.

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent. Interest on promissory note

7.—(1) Paragraph 3 of section 208 of the said Act is repealed and the following substituted therefor:

3. For contracting for insurance, exchanging with other municipalities in Ontario reciprocal contracts of indemnity or inter-insurance in accordance with Part XIII of the *Insurance Act* and for self-insuring, against risks that may involve pecuniary loss or liability on the part of the corporation, and for paying premiums therefor. Insurance
R.S.O. 1980, c. 218

(a) Notwithstanding subsections 340 (1) and (2) of the *Insurance Act*, any surplus funds and the reserve fund of a municipal reciprocal exchange may be invested only in such securities as a municipality may invest in under subsection 165 (2).

(b) The moneys raised for a reserve fund of a municipal reciprocal exchange may be expended, pledged or applied to a purpose other than that for which the fund was established if two-thirds of the municipalities that are members of the exchange together with two-thirds of the municipalities that previously were

members of the exchange and that may be subject to claims arising while they were members of the exchange, agree in writing and if section 339 of the *Insurance Act* is complied with.

R.S.O. 1980,
c. 303

- (c) A local board, as defined in the *Municipal Affairs Act*, has the same powers to contract for insurance, to exchange reciprocal contracts of indemnity and to self-insure as are conferred upon the council of a municipality under this paragraph.

(2) Paragraph 43 of the said section 208, as amended by the Statutes of Ontario, 1982, chapter 50, section 23, is further amended by inserting after “thereof” in the fifth line “and for authorizing a committee of council or a municipal officer or servant, subject to such conditions as council may impose, to exercise any of the powers of council under this paragraph”.

(3) Paragraph 44 of the said section 208, exclusive of the clauses, is repealed and the following substituted therefor:

Temporary
closing of
highway

44. For closing to vehicular traffic on a temporary basis for such period as shall be specified in the by-law, any highway under the jurisdiction of the council for such social, recreational, community, athletic or cinematographic purpose, or combination of such purposes, as may be specified in the by-law and for authorizing a committee of council or a municipal officer or servant, subject to such conditions as council may impose, to exercise any of the powers of council under this paragraph.

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(4) Paragraph 50 of the said section 208, exclusive of clauses (b) to (d), is repealed and the following substituted therefor:

Liability
insurance,
payment of
damages, etc.
R.S.O. 1980,
c. 218

50. For contracting for insurance and, notwithstanding the *Insurance Act*, enabling the municipality to be or act as an insurer, to protect the employees of the municipality, or any class of such employees, against risks that may involve liability on the part of the employees and for paying premiums therefor or for paying any damages or costs awarded against any of the employees or expenses incurred by them as a result of any action or other proceeding arising out of acts or omissions done or made by them in their capacity as employees including while acting in the performance of any statutory duty or for paying any sum required in connection with the settlement of an action or other proceeding and for assuming the cost of defending the person in such an action or other proceeding.

(a) In this paragraph,

(i) “employee” means any salaried officer, clerk, workman, servant or other person in the employ of the municipality or of a local board and includes,

(A) a member of the police force of the municipality,

(B) persons that provide their services on behalf of the municipality without remuneration, exclusive of reimbursement of expenses or honoraria, if council of the municipality has passed a by-law designating such persons or classes of persons as employees for the purposes of this paragraph, and

(C) any other person or class of person designated as an employee by the Minister,

(ii) “local board” means a local board as defined in the *Municipal Affairs Act*.

R.S.O. 1980,
c. 303

(e) The *Insurance Act* does not apply to a municipality acting as an insurer for the purpose of this paragraph.

R.S.O. 1980,
c. 218

(5) Section 208 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 24, section 9, 1982, chapter 50, section 23 and 1987, chapter 10, section 20, is further amended by adding thereto the following paragraph:

50a. For exchanging with other municipalities in Ontario reciprocal contracts of indemnity or inter-insurance in accordance with Part XIII of the *Insurance Act* for the purpose of protecting the employees of the municipality or any local board thereof, or any class of such employees, against those risks which the corporation may insure or self-insure under paragraph 50.

Reciprocal
contracts of
indemnity
R.S.O. 1980,
c. 218

(a) Notwithstanding subsections 340 (1) and (2) of the *Insurance Act*, any surplus funds and the reserve fund of a municipal reciprocal exchange may be invested only in such securities as a municipality may invest in under subsection 165 (2).

- (b) The moneys raised for a reserve fund of a municipal reciprocal exchange may be expended, pledged or applied to a purpose other than that for which the fund was established if two-thirds of the municipalities that are members of the exchange together with two-thirds of the municipalities that previously were members of the exchange and that may be subject to claims arising while they were members of the exchange, agree in writing and if section 339 of the *Insurance Act* is complied with.
- (c) Clauses (a) to (d) of paragraph 50 apply, with necessary modifications, to the powers conferred by this paragraph.

8. Paragraph 96 of section 210 of the said Act is amended by adding thereto the following clause:

- (c) No fees are payable under clause (b) in respect of a child residing in a trailer if the trailer is liable for assessment and taxation under the *Assessment Act*.

R.S.O. 1980,
c. 31

9.—(1) Clause 218 (1) (b) of the said Act is repealed and the following substituted therefor:

- (b) “capital cost” means the cost of constructing sewage works or water works, inclusive of all items of cost usually and properly chargeable to capital account, and where applicable, the interest amounts payable on the debentures to be issued for the works and the imputed interest costs determined under subsection (2a).

(2) Section 218 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 50, section 25, is further amended by adding thereto the following subsections:

Rate of
interest for
long-term
financing

(2a) Where a by-law passed under subsection (2) specifies that the capital cost of the works is to include the imputed interest cost on money supplied from the funds of the municipality to finance the owners' share of the cost of the works, the rate of interest to be applied, for determining the imputed interest cost shall be the interest rate, as certified in writing by the treasurer, that the municipality would have expected to pay to finance the owners' share of the cost of the work by debentures issued on the day named in the certificate having a schedule of maturity dates that would have coincided with the system of collecting the sewer rates or water works rates as established under clause (19) (a).

(2b) A day named in a certificate under subsection (2a), if it is prior to the day that the by-law specifying the capital cost of the works receives first reading, shall not be earlier than sixty days prior to that first reading.

Date of
certificate

(3) Subsection 218 (9) of the said Act is repealed and the following substituted therefor:

(9) Where debentures are issued in respect of sewage or water works, the revenue derived in any year from a rate imposed under subsection (2) for the capital cost of the works shall be applied and used towards payment of principal and interest due in that year upon the debentures, and the council shall reduce the amount of the debenture rate to be levied for such debentures in any year upon the rateable property liable therefor by the amount of revenue estimated to be derived in that year from the rate imposed under subsection (2).

Revenue
from rates

(9a) The revenue from the sewer rate or water works rate imposed under subsection (2), if not required for payment of principal and interest due as specified in subsection (9), may be credited by the municipality to its general revenues.

Idem

10. Subsection 248 (1) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 8, section 16, is repealed and the following substituted therefor:

(1) The council of every municipality may at any time pass by-laws,

Liability
insurance,
payment of
damages, etc.

(a) for contracting for insurance;

(b) notwithstanding the *Insurance Act*, to enable the municipality to act as an insurer; and

R.S.O. 1980,
c. 218

(c) for exchanging with other municipalities in Ontario reciprocal contracts of indemnity or inter-insurance in accordance with Part XIII of the *Insurance Act*,

for the purpose of protecting the members of the council or of any local board thereof, as defined in the *Municipal Affairs Act*, against risks that may involve liability on the part of the members and for paying premiums therefor or for paying any damages or costs awarded against any such members or expenses incurred by them as a result of any action or other proceeding, except a proceeding brought under the *Municipal Conflict of Interest Act, 1983*, arising out of acts or omissions done or made by them in their capacity as members or officers of the municipality or local board including while acting in the performance of any statutory duty or for paying any sum

R.S.O. 1980,
c. 303

1983, c. 8

required in connection with the settlement of an action or other proceeding and for assuming the cost of defending the member in such an action or other proceeding.

R.S.O. 1980,
c. 218 does
not apply

(1a) The *Insurance Act* does not apply to a municipality acting as an insurer for the purposes of this section.

Investment of
funds

(1b) Notwithstanding subsections 340 (1) and (2) of the *Insurance Act*, any surplus funds and the reserve fund of a municipal reciprocal exchange may be invested only in such securities as a municipality may invest in under subsection 165 (2) of this Act.

Reserve fund

(1c) The moneys raised for a reserve fund of a municipal reciprocal exchange may be expended, pledged or applied to a purpose other than that for which the fund was established if two-thirds of the municipalities that are members of the exchange together with two-thirds of the municipalities that previously were members of the exchange and that may be subject to claims arising while they were members of the exchange agree in writing and if section 339 of the *Insurance Act* is complied with.

R.S.O. 1980,
c. 218

11. The said Act is amended by adding thereto the following section:

Penalties for
contravention
of sewage
by-laws

321b.—(1) Notwithstanding section 321, the council of a municipality may pass by-laws for providing that any person who contravenes a by-law passed by the council that regulates or prohibits the discharge of any matter into a sewage system is guilty of an offence and for providing for the imposition of fines of not more than \$5,000 on every person who is convicted of a first offence and \$10,000 for any subsequent offence under any such by-law.

Corporations

(2) Notwithstanding subsection (1), where a corporation is convicted of an offence under a by-law passed under subsection (1), the maximum penalty that may be imposed upon the corporation is \$25,000 for the first offence and \$50,000 for any subsequent offence.

12. Subsection 386 (6) of the said Act is amended by striking out “fourteen days” in the seventh and eighth lines and inserting in lieu thereof “twenty-one days or such longer period as the council may authorize”.

13.—(1) Subsection 387 (1) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 37, is further amended,

- (a) by striking out “fourteen” in the second line and inserting in lieu thereof “twenty-one”; and
- (b) by inserting after “386” in the fourth line “or where a longer period has been authorized under subsection 386 (6), such taxes remain unpaid at the expiry of that period”.

(2) Subsection 387 (2) of the said Act is amended,

- (a) by striking out “fourteen” in the second line and inserting in lieu thereof “twenty-one”; and
- (b) by inserting after “386” in the fourth line “or where a longer period has been authorized under subsection 386 (6), such taxes remain unpaid at the expiry of that period”.

14. Subsection 495 (2) of the said Act is amended by inserting after “496” in the third line “or 496a”.

15. The said Act is further amended by adding thereto the following section:

496a.—(1) An application to the council for the cancellation, reduction or refund of taxes levied in the years indicated in subsections (5) and (6) may be made by any person who was overcharged by reason of any gross or manifest error in the preparation of the assessment roll that was an error of fact, which may include but is not limited to, clerical errors, the transposition of figures or typographical errors, but not an error in judgment in making the assessment upon which the taxes have been levied.

Reduction of
taxes, etc.,
for clerical
errors

(2) The council may by by-law appoint a committee composed of at least three persons who are members of council or who are eligible to be elected members of council but these persons shall not be employees of the municipality or of a local board as defined in the *Municipal Affairs Act* and the committee shall hear the applications under subsection (13) and section 106 applies thereto.

Delegation to
committee

R.S.O. 1980,
c. 303

(3) An application may be made from the 1st day of March until the 31st day of December of any year, by giving written notice to the clerk of the municipality.

When
application to
be made

(4) Where the Minister of Revenue extends the time for the return of the assessment roll of a municipality under subsection 35 (2) of the *Assessment Act*, an application under this section to the council of that municipality shall not be made

Idem

R.S.O. 1980,
c. 31

earlier than sixty-one days after the assessment roll is returned.

Application,
general

(5) A separate application may be made for taxes levied in each or either of the two years preceding the year in which the application is made if the assessment on the property or business, as the case may be, has not been the subject of an appeal, complaint or application under section 34, 39 or 50 of the *Assessment Act*, in either of those years or in the year in which an application is made under this section, but where an error is made subsequent to all such appeals, complaints or applications under section 34, 39 or 50 of the *Assessment Act*, an application may be made under this section in respect to that error.

Application
in 1988

(6) Notwithstanding subsection (5), separate applications may be made in 1988 for taxes levied in each or any of the years 1982, 1983, 1984 and 1985 if,

- (a) the applicant has advised the municipality of the error before the 31st day of May, 1987; and
- (b) the assessment on the property or business, as the case may be, has not been the subject of an appeal, complaint or application under section 34, 39 or 50 of the *Assessment Act* in any of the years 1982 to 1988, but where an error is made subsequent to all such appeals, complaints or applications under section 34, 39 or 50 of the *Assessment Act*, an application may be made under this section in respect to that error.

Notice of
application

(7) The clerk shall forward a copy of the application to the assessment commissioner and the regional registrar of the Assessment Review Board.

When
application
not valid

(8) An application is not valid and shall not be heard by council unless,

- (a) the application complies with subsection (5) or (6); and
- (b) the assessment commissioner has confirmed an error in the assessment referred to in the application.

Notification
by clerk

(9) Where an application is not valid under subsection (8), the clerk shall notify the applicant in writing and the reasons therefor.

(10) Notice of a hearing by the council under this section shall be given by mail by the clerk of the municipality to the applicant not less than fourteen days before the date upon which the application is to be dealt with by the council.

Notice of
hearing

(11) The council may reject the application or,

Determi-
nation by
council

- (a) if the taxes have not been paid, cancel the whole of the taxes or reduce the taxes;
- (b) if the taxes have been paid in full, order a refund of the whole of the taxes or any part thereof; or
- (c) if the taxes have been paid in part, order a refund of the whole of the taxes paid or any part thereof and reduce or cancel the portion of the taxes unpaid.

(12) The decision of the council is final.

Decision final

(13) The council shall hear and dispose of every application not later than the 30th day of April in the year following the year in which the application is made and the clerk shall thereupon cause notice of the decision to be given by mail to the persons to whom notice of the hearing of the application was given.

Hearing

(14) Notwithstanding subsection (13), where council has appointed a committee to hear applications, the committee shall hear every application before the 31st day of March in the year following the year in which the application is made.

Idem, when
committee
appointed

(15) The clerk shall deliver or mail a copy of the notice of a decision of council to the assessment commissioner, but failure to comply with this subsection does not invalidate the proceedings taken under this section.

Notice of
decision to
assessment
commissioner

(16) The Lieutenant Governor in Council may make regulations prescribing errors that are to be included or excluded as errors of fact under subsection (1).

Regulations

16. The said Act is further amended by adding thereto the following section:

498a.—(1) The Minister may pay taxes due to a municipality by a tenant, as defined in the *Assessment Act*, of land owned by Her Majesty in right of Ontario or in which Her Majesty in right of Ontario has an interest.

Tax
arrangements
for tenants of
provincial
government
R.S.O. 1980,
c. 31

Idem

(2) Where the Minister pays the taxes due in any year on behalf of a tenant under subsection (1) in respect of land occupied by the tenant and the municipality accepts the payment, all future notices of taxes due to the municipality in respect of the tenant's occupancy of the land shall be sent to the Minister and not to the tenant.

Tenant's responsibility

(3) Where the Minister pays taxes on behalf of a tenant under subsection (1), the tenant ceases to be liable to the municipality for the taxes due but the Minister may recover the amount of the taxes in whole or in part from the tenant and the amount billed to a tenant by the Minister under this subsection shall be deemed to be a debt of the tenant owing to Her Majesty in right of Ontario.

Amount deemed to be taxes

(4) An amount received by a municipality under subsection (1) shall be treated in the same manner as if paid as taxes by the tenant.

17. Subsection 14 (1) of the *Municipal Conflict of Interest Act, 1983*, being chapter 8, is repealed and the following substituted therefor:

Insurance
R.S.O. 1980,
c. 302

(1) Notwithstanding section 248 of the *Municipal Act*, the council of every municipality may at any time pass by-laws,

(a) for contracting for insurance;

R.S.O. 1980,
c. 218

(b) notwithstanding the *Insurance Act*, to enable the municipality to act as an insurer; and

R.S.O. 1980,
c. 218

(c) for exchanging with other municipalities in Ontario reciprocal contracts of indemnity or inter-insurance in accordance with Part XIII of the *Insurance Act*,

to protect a member of the council or of any local board thereof who has been found not to have contravened section 5, against any costs or expenses incurred by the member as a result of a proceeding brought under this Act, and for paying on behalf of or reimbursing the member for any such costs or expenses.

R.S.O. 1980,
c. 218 does
not apply

(1a) The *Insurance Act* does not apply to a municipality acting as an insurer for the purposes of subsection (1).

Surplus funds

(1b) Notwithstanding subsections 340 (1) and (2) of the *Insurance Act*, any surplus funds and the reserve fund of a municipal reciprocal exchange may be invested only in such securities as a municipality may invest in under subsection 165 (2) of the *Municipal Act*.

R.S.O. 1980,
c. 302

(1c) The moneys raised for a reserve fund of a municipal reciprocal exchange may be expended, pledged or applied to a purpose other than that for which the fund was established if two-thirds of the municipalities that are members of the exchange together with two-thirds of the municipalities that previously were members of the exchange and that may be subject to claims arising while they were members of the exchange agree in writing and if section 339 of the *Insurance Act* is complied with.

Reserve
funds

18.—(1) Subsection 83 (1) of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, is amended by inserting after “note” in the fifth line “or bankers’ acceptance”.

(2) Subsection 83 (5) of the said Act is repealed and the following substituted therefor:

(5) A promissory note or bankers’ acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

Execution of
borrowing
instruments

(3) Subsection 83 (6) of the said Act is amended by inserting after “notes” in the second line and in the fourth line in each instance “or bankers’ acceptances” and by inserting after “note” in the fifth line “or bankers’ acceptance”.

(4) Subsection 83 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

(5) Section 83 of the said Act is amended by adding thereto the following subsections:

(13) For the purposes of this section, where the District Corporation raises money by means of a bankers’ acceptance, the District Corporation shall be deemed to be borrowing money.

Deeming
provision

(14) A bankers’ acceptance authorized under this section,

Bankers’
acceptance

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

R.S.C. 1970,
c. B-5

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

1980-81,
c. 40 (Can.)

(c) may be discounted.

Interest on
promissory
note

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

(6) Subsection 108 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 48, section 9, is amended by inserting after “50” in the third line “50a”.

19.—(1) Subsection 222 (1) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is amended by inserting after “note” in the fifth line “or bankers’ acceptance”.

(2) Subsection 222 (6) of the said Act is repealed and the following substituted therefor:

Execution of
borrowing
instruments

(6) A promissory note or bankers’ acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

(3) Subsection 222 (7) of the said Act is amended by inserting after “notes” in the second line and in the fourth line in each instance “or bankers’ acceptances” and by inserting after “note” in the fifth line “or bankers’ acceptance”.

(4) Subsection 222 (9) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

(5) Section 222 of the said Act is amended by adding thereto the following subsections:

Deeming
provision

(14) For the purposes of this section, where the Metropolitan Corporation raises money by means of a bankers’ acceptance, the Metropolitan Corporation shall be deemed to be borrowing money.

Bankers’
acceptance

(15) A bankers’ acceptance authorized under this section,

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

R.S.C. 1970
c. B-5

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

1980-81,
c. 40 (Can.)

(c) may be discounted.

Interest on
promissory
note

(16) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as

may be borrowed thereon from the time when such money is actually lent.

(6) Subsection 245 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 18, section 17, is amended by inserting after “50” in the third line “50a”.

20.—(1) Subsection 92 (1) of the *County of Oxford Act*, being chapter 365 of the Revised Statutes of Ontario, 1980, is amended by inserting after “note” in the fifth line “or bankers’ acceptance”.

(2) Subsection 92 (5) of the said Act is repealed and the following substituted therefor:

(5) A promissory note or bankers’ acceptance made under the authority of this section shall be signed by the warden or by some other person authorized by by-law to sign it and by the treasurer.

Execution of
borrowing
instruments

(3) Subsection 92 (6) of the said Act is amended by inserting after “notes” in the second line and in the fourth line in each instance “or bankers’ acceptances” and by inserting after “note” in the fifth line “or bankers’ acceptance”.

(4) Subsection 92 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

(5) Section 92 of the said Act is amended by adding thereto the following subsections:

(13) For the purposes of this section, where the County raises money by means of a bankers’ acceptance, the County shall be deemed to be borrowing money.

Deeming
provision

(14) A bankers’ acceptance authorized under this section,

Bankers’
acceptance

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

R.S.C. 1970,
c. B-5

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

1980-81,
c. 40 (Can.)

(c) may be discounted.

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

Interest on
promissory
note

(6) Subsection 117 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 66, section 6, is amended by inserting after “50” in the fifth line “50a”.

21.—(1) Subsection 104 (1) of the *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, is amended by inserting after “note” in the fifth line “or bankers’ acceptance”.

(2) Subsection 104 (5) of the said Act is repealed and the following substituted therefor:

Execution of
borrowing
instruments

(5) A promissory note or bankers’ acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

(3) Subsection 104 (6) of the said Act is amended by inserting after “notes” in the second line and in the fourth line in each instance “or bankers’ acceptances” and by inserting after “note” in the fifth line “or bankers’ acceptance”.

(4) Subsection 104 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

(5) Section 104 of the said Act is amended by adding thereto the following subsections:

Deeming
provision

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers’ acceptance, the Regional Corporation shall be deemed to be borrowing money.

Bankers’
acceptance

(14) A bankers’ acceptance authorized under this section,

R.S.C. 1970,
c. B-5

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

1980-81,
c. 40 (Can.)

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

(c) may be discounted.

Interest on
promissory
note

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

(6) Subsection 129 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 5 and amended

by the Statutes of Ontario, 1987, chapter 22, section 1, is further amended by inserting after “50” in the fifth line “50a”.

22.—(1) Subsection 86 (1) of the *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised Statutes of Ontario, 1980, is amended by inserting after “note” in the fifth line “or bankers’ acceptance”.

(2) Subsection 86 (5) of the said Act is repealed and the following substituted therefor:

(5) A promissory note or bankers’ acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

Execution of
borrowing
instruments

(3) Subsection 86 (6) of the said Act is amended by inserting after “notes” in the second line and in the fourth line in each instance “or bankers’ acceptances” and by inserting after “note” in the fifth line “or bankers’ acceptance”.

(4) Subsection 86 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

(5) Section 86 of the said Act is amended by adding thereto the following subsections:

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers’ acceptance, the Regional Corporation shall be deemed to be borrowing money.

Deeming
provision

(14) A bankers’ acceptance authorized under this section,

Bankers’
acceptance

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

R.S.C. 1970,
c. B-5

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

1980-81,
c. 40 (Can.)

(c) may be discounted.

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

Interest on
promissory
note

(6) Subsection 111 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 12 and amended

by the Statutes of Ontario, 1987, chapter 22, section 2, is further amended by inserting after “50” in the fifth line “50a”.

23.—(1) Subsection 97 (1) of the *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, is amended by inserting after “note” in the fifth line “or bankers’ acceptance”.

(2) Subsection 97 (5) of the said Act is repealed and the following substituted therefor:

Execution of
borrowing
instruments

(5) A promissory note or bankers’ acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

(3) Subsection 97 (6) of the said Act is amended by inserting after “notes” in the second line and in the fourth line in each instance “or bankers’ acceptances” and by inserting after “note” in the fifth line “or bankers’ acceptance”.

(4) Subsection 97 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

(5) Section 97 of the said Act is amended by adding thereto the following subsections:

Deeming
provision

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers’ acceptance, the Regional Corporation shall be deemed to be borrowing money.

Bankers’
acceptance

(14) A bankers’ acceptance authorized under this section,

R.S.C. 1970,
c. B-5

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

1980-81,
c. 40 (Can.)

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

(c) may be discounted.

Interest on
promissory
note

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

(6) Subsection 122 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 17 and amended

by the Statutes of Ontario, 1987, chapter 22, section 3, is further amended by inserting after “50” in the fifth line “50a”.

24.—(1) Subsection 108 (1) of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, is amended by inserting after “note” in the fifth line “or bankers’ acceptance”.

(2) Subsection 108 (5) of the said Act is repealed and the following substituted therefor:

(5) A promissory note or bankers’ acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

Execution of
borrowing
instruments

(3) Subsection 108 (6) of the said Act is amended by inserting after “notes” in the second line and in the fourth line in each instance “or bankers’ acceptances” and by inserting after “note” in the fifth line “or bankers’ acceptance”.

(4) Subsection 108 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

(5) Section 108 of the said Act is amended by adding thereto the following subsections:

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers’ acceptance, the Regional Corporation shall be deemed to be borrowing money.

Deeming
provision

(14) A bankers’ acceptance authorized under this section,

Bankers’
acceptance

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

R.S.C. 1970,
c. B-5

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

1980-81,
c. 40 (Can.)

(c) may be discounted.

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

Interest on
promissory
note

(6) Subsection 133 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 46, section 4 and amended

by the Statutes of Ontario, 1987, chapter 22, section 4, is further amended by inserting after "50" in the fifth line "50a".

25.—(1) Subsection 137 (1) of the *Regional Municipality of Niagara Act*, being chapter 438 of the Revised Statutes of Ontario, 1980, is amended by inserting after "note" in the fifth line "or bankers' acceptance".

(2) Subsection 137 (5) of the said Act is repealed and the following substituted therefor:

Execution of
borrowing
instruments

(5) A promissory note or bankers' acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the financial officer.

(3) Subsection 137 (6) of the said Act is amended by inserting after "notes" in the second line and in the fourth line in each instance "or bankers' acceptances" and inserting after "note" in the fifth line "or bankers' acceptance".

(4) Subsection 137 (8) of the said Act is amended by striking out "sealed with the corporate seal and" in the second line.

(5) Section 137 of the said Act is amended by adding thereto the following subsections:

Deeming
provision

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers' acceptance, the Regional Corporation shall be deemed to be borrowing money.

Bankers'
acceptance

(14) A bankers' acceptance authorized under this section,

R.S.C. 1970,
c. B-5

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

1980-81,
c. 40 (Can.)

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

(c) may be discounted.

Interest on
promissory
note

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

(6) Subsection 161 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 31 and amended

by the Statutes of Ontario, 1987, chapter 22, section 5, is further amended by inserting after “50” in the fifth line “50a”.

26.—(1) Subsection 128 (1) of the *Regional Municipality of Ottawa-Carleton Act*, being chapter 439 of the Revised Statutes of Ontario, 1980, is amended by inserting after “note” in the fifth line “or bankers’ acceptance”.

(2) Subsection 128 (5) of the said Act is repealed and the following substituted therefor:

(5) A promissory note or bankers’ acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

Execution of
borrowing
instruments

(3) Subsection 128 (6) of the said Act is amended by inserting after “notes” in the second line and in the fourth line in each instance “or bankers’ acceptances” and by inserting after “note” in the fifth line “or bankers’ acceptance”.

(4) Subsection 128 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

(5) Section 128 of the said Act is amended by adding thereto the following subsections:

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers’ acceptance, the Regional Corporation shall be deemed to be borrowing money.

Deeming
provision

(14) A bankers’ acceptance authorized under this section,

Bankers’
acceptance

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

R.S.C. 1970,
c. B-5

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

1980-81,
c. 40 (Can.)

(c) may be discounted.

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

Interest on
promissory
note

(6) Subsection 163 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 35 and amended

by the Statutes of Ontario, 1987, chapter 22, section 6, is further amended by inserting after “50” in the third line “50a”.

27.—(1) Subsection 92 (1) of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, is amended by inserting after “note” in the fifth line “or bankers’ acceptance”.

(2) Subsection 92 (5) of the said Act is repealed and the following substituted therefor:

Execution of
borrowing
instruments

(5) A promissory note or bankers’ acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

(3) Subsection 92 (6) of the said Act is amended by inserting after “notes” in the second line and in the fourth line in each instance “or bankers’ acceptances” and by inserting after “note” in the fifth line “or bankers’ acceptance”.

(4) Subsection 92 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

(5) Section 92 of the said Act is amended by adding thereto the following subsections:

Deeming
provision

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers’ acceptance, the Regional Corporation shall be deemed to be borrowing money.

Bankers’
acceptance

(14) A bankers’ acceptance authorized under this section,

R.S.C. 1970,
c. B-5

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

1980-81,
c. 40 (Can.)

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

(c) may be discounted.

Interest on
promissory
note

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

(6) Subsection 117 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 41 and amended

by the Statutes of Ontario, 1987, chapter 22, section 7, is further amended by inserting after "50" in the fifth line "50a".

28.—(1) Subsection 79 (1) of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is amended by inserting after "note" in the fifth line "or bankers' acceptance".

(2) Subsection 79 (5) of the said Act is repealed and the following substituted therefor:

(5) A promissory note or bankers' acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

Execution of
borrowing
instruments

(3) Subsection 79 (6) of the said Act is amended by inserting after "notes" in the second line and in the fourth line in each instance "or bankers' acceptances" and by inserting after "note" in the fifth line "or bankers' acceptance".

(4) Subsection 79 (8) of the said Act is amended by striking out "sealed with the corporate seal and" in the second line.

(5) Section 79 of the said Act is amended by adding thereto the following subsections:

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers' acceptance, the Regional Corporation shall be deemed to be borrowing money.

Deeming
provision

(14) A bankers' acceptance authorized under this section,

Bankers'
acceptance

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

R.S.C. 1970,
c. B-5

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

1980-81,
c. 40 (Can.)

(c) may be discounted.

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

Interest on
promissory
note

(6) Subsection 103 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 48 and amended

by the Statutes of Ontario, 1987, chapter 22, section 8, is further amended by inserting after "50" in the third line "50a".

29.—(1) Subsection 126 (1) of the *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, is amended by inserting after "note" in the fifth line "or bankers' acceptance".

(2) Subsection 126 (5) of the said Act is repealed and the following substituted therefor:

Execution of
borrowing
instruments

(5) A promissory note or bankers' acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

(3) Subsection 126 (6) of the said Act is amended by inserting after "notes" in the second line and in the fourth line in each instance "or bankers' acceptances" and by inserting after "note" in the fifth line "or bankers' acceptance".

(4) Subsection 126 (8) of the said Act is amended by striking out "sealed with the corporate seal and" in the second line.

(5) Section 126 of the said Act is amended by adding thereto the following subsections:

Deeming
provision

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers' acceptance, the Regional Corporation shall be deemed to be borrowing money.

Bankers'
acceptance

(14) A bankers' acceptance authorized under this section,

R.S.C. 1970,
c. B-5

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

1980-81,
c. 40 (Can.)

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

(c) may be discounted.

Interest on
promissory
note

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

(6) Subsection 151 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 54 and amended

by the Statutes of Ontario, 1987, chapter 22, section 9, is further amended by inserting after “50” in the third line “50a”.

30.—(1) Subsection 129 (1) of the *Regional Municipality of York Act*, being chapter 443 of the Revised Statutes of Ontario, 1980, is amended by inserting after “note” in the fifth line “or bankers’ acceptance”.

(2) Subsection 129 (5) of the said Act is repealed and the following substituted therefor:

(5) A promissory note or bankers’ acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the financial officer.

Execution of
borrowing
instruments

(3) Subsection 129 (6) of the said Act is amended by inserting after “notes” in the second line and in the fourth line in each instance “or bankers’ acceptances” and by inserting after “note” in the fifth line “or bankers’ acceptance”.

(4) Subsection 129 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

(5) Section 129 of the said Act is amended by adding thereto the following subsections:

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers’ acceptance, the Regional Corporation shall be deemed to be borrowing money.

Deeming
provision

(14) A bankers’ acceptance authorized under this section,

Bankers’
acceptance

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

R.S.C. 1970,
c. B-5

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

1980-81,
c. 40 (Can.)

(c) may be discounted.

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

Interest on
promissory
note

(6) Subsection 153 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 59 and amended

by the Statutes of Ontario, 1987, chapter 22, section 10, is further amended by inserting after “50” in the third line “50a”.



Commence-
ment

31.—(1) This Act, except sections 5, 8, 12, 13 and 16, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 5, 8 and 16 shall be deemed to have come into force on the 1st day of January, 1987.

Idem

(3) Sections 12 and 13 come into force on the 1st day of January, 1989.



Short title

32. The short title of this Act is the *Municipal Statute Law Amendment Act, 1988*.

Bill 59

*(Chapter 31
Statutes of Ontario, 1988)*

An Act to amend the Municipal Act and certain other Acts related to municipalities

The Hon. J. Eakins
Minister of Municipal Affairs

<i>1st Reading</i>	December 7th, 1987
<i>2nd Reading</i>	June 1st, 1988
<i>3rd Reading</i>	June 8th, 1988
<i>Royal Assent</i>	June 8th, 1988

Bill 59

1987

**An Act to amend the Municipal Act and
certain other Acts related to municipalities**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 51 (3) and (4) of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

(3) Subject to subsection (4) and notwithstanding section 62, the warden shall be elected in the manner provided by by-law passed by council prior to the election. Election of
warden

(4) In the case of an equality of votes for warden, the successful candidate shall be determined by the clerk or presiding member placing the names of the candidates on equal size pieces of paper in a box and one name being drawn by a person chosen by the clerk or presiding member. Tie vote

(5) Notwithstanding anything in this Act, for the purposes of electing the warden, each member of county council shall have one vote. Number of
votes

2. Subsection 78 (3) of the said Act is repealed.

3. Clause 144 (c) of the said Act is amended by striking out “at a public meeting of the council” in the third and fourth lines and inserting in lieu thereof “in such manner as may be prescribed by by-law of the council”.

4. Subsection 149 (2) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 50, section 14, is further amended by adding thereto the following clause:

- (v) agreements for insurance and reciprocal contracts of indemnity or inter-insurance providing insurance and protection under paragraphs 3 and 50 of section 208 and under

1983, c. 8

section 248 of this Act and under section 14 of the *Municipal Conflict of Interest Act*, 1983.

5.—(1) Subsection 160 (1), subsection 160 (3), as amended by the Statutes of Ontario, 1984, chapter 55, section 222, and subsections 160 (4), (5) and (6) of the said Act are amended by striking out “\$50” wherever it occurs and inserting in lieu thereof in each instance “\$75”.

(2) Subsection 160 (8) of the said Act is amended by striking out “(6) or (7)” in the second line and inserting in lieu thereof “or (6)”.

(3) Subsection 160 (9) of the said Act is amended by striking out “(6) or (7)” in the second and third lines and inserting in lieu thereof “or (6)”.

(4) Subsection 160 (11) of the said Act is amended by striking out “(6) or (7)” in the fifth line and inserting in lieu thereof “or (6)”.

6.—(1) Subsection 189 (1) of the said Act is repealed and the following substituted therefor:

Current
borrowings

(1) A council may by by-law either before or after the passing of the by-law for imposing the rates for the current year authorize the head and treasurer to borrow from time to time by way of promissory note or bankers' acceptance such sums as the council considers necessary to meet, until the taxes are collected and other revenues are received, the current expenditures of the corporation for the year, including the amounts required for sinking fund, principal and interest falling due within the year upon any debt of the corporation, school purposes, special rates purposes, and for any board, commission or body and other purposes for which the corporation is required by law to provide.

(2) Subsection 189 (6) of the said Act is repealed and the following substituted therefor:

Execution of
borrowing
instruments

(6) A promissory note or bankers' acceptance made under the authority of this section shall be signed by the treasurer and by the head of the council or by some other person authorized by by-law to sign it.

Idem

(6a) The signature of the head of the council to all promissory notes or bankers' acceptances may be written, engraved, lithographed, printed or otherwise mechanically reproduced and, if such promissory notes or bankers' acceptances are countersigned in writing by the deputy treasurer, the signature

of the treasurer thereon may be written, engraved, lithographed, printed or otherwise mechanically reproduced.

(3) Subsection 189 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

(4) Section 189 of the said Act is amended by adding thereto the following subsections:

(13) Where a municipality raises money by means of a bankers' acceptance, the municipality shall be deemed to be borrowing money. Deeming provision

(14) A bankers' acceptance authorized under this section, Bankers' acceptance

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada); R.S.C. 1970,
c. B-5

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and 1980-81,
c. 40 (Can.)

(c) may be discounted.

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent. Interest on promissory note

7.—(1) Paragraph 3 of section 208 of the said Act is repealed and the following substituted therefor:

3. For contracting for insurance, exchanging with other municipalities in Ontario reciprocal contracts of indemnity or inter-insurance in accordance with Part XIII of the *Insurance Act* and for self-insuring, against risks that may involve pecuniary loss or liability on the part of the corporation, and for paying premiums therefor. Insurance
R.S.O. 1980,
c. 218

(a) Notwithstanding subsections 340 (1) and (2) of the *Insurance Act*, any surplus funds and the reserve fund of a municipal reciprocal exchange may be invested only in such securities as a municipality may invest in under subsection 165 (2).

(b) The moneys raised for a reserve fund of a municipal reciprocal exchange may be expended, pledged or applied to a purpose other than that for which the fund was established if two-thirds of the municipalities that are members of the exchange together with two-thirds of the municipalities that previously were

members of the exchange and that may be subject to claims arising while they were members of the exchange, agree in writing and if section 339 of the *Insurance Act* is complied with.

R.S.O. 1980,
c. 218

R.S.O. 1980,
c. 303

- (c) A local board, as defined in the *Municipal Affairs Act*, has the same powers to contract for insurance, to exchange reciprocal contracts of indemnity and to self-insure as are conferred upon the council of a municipality under this paragraph.

(2) Paragraph 43 of the said section 208, as amended by the Statutes of Ontario, 1982, chapter 50, section 23, is further amended by inserting after “thereof” in the fifth line “and for authorizing a committee of council or a municipal officer or servant, subject to such conditions as council may impose, to exercise any of the powers of council under this paragraph”.

(3) Paragraph 44 of the said section 208, exclusive of the clauses, is repealed and the following substituted therefor:

Temporary
closing of
highway

44. For closing to vehicular traffic on a temporary basis for such period as shall be specified in the by-law, any highway under the jurisdiction of the council for such social, recreational, community, athletic or cinematographic purpose, or combination of such purposes, as may be specified in the by-law and for authorizing a committee of council or a municipal officer or servant, subject to such conditions as council may impose, to exercise any of the powers of council under this paragraph.

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(4) Paragraph 50 of the said section 208, exclusive of clauses (b) to (d), is repealed and the following substituted therefor:

Liability
insurance,
payment of
damages, etc.
R.S.O. 1980,
c. 218

50. For contracting for insurance and, notwithstanding the *Insurance Act*, enabling the municipality to be or act as an insurer, to protect the employees of the municipality, or any class of such employees, against risks that may involve liability on the part of the employees and for paying premiums therefor or for paying any damages or costs awarded against any of the employees or expenses incurred by them as a result of any action or other proceeding arising out of acts or omissions done or made by them in their capacity as employees including while acting in the performance of any statutory duty or for paying any sum required in connection with the settlement of an action or other proceeding and for assuming the cost of defending the person in such an action or other proceeding.

(a) In this paragraph,

(i) “employee” means any salaried officer, clerk, workman, servant or other person in the employ of the municipality or of a local board and includes,

(A) a member of the police force of the municipality,

(B) persons that provide their services on behalf of the municipality without remuneration, exclusive of reimbursement of expenses or honoraria, if council of the municipality has passed a by-law designating such persons or classes of persons as employees for the purposes of this paragraph, and

(C) any other person or class of person designated as an employee by the Minister,

(ii) “local board” means a local board as defined in the *Municipal Affairs Act*.

R.S.O. 1980,
c. 303

.

(e) The *Insurance Act* does not apply to a municipality acting as an insurer for the purpose of this paragraph.

R.S.O. 1980,
c. 218

(5) Section 208 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 24, section 9, 1982, chapter 50, section 23 and 1987, chapter 10, section 20, is further amended by adding thereto the following paragraph:

50a. For exchanging with other municipalities in Ontario reciprocal contracts of indemnity or inter-insurance in accordance with Part XIII of the *Insurance Act* for the purpose of protecting the employees of the municipality or any local board thereof, or any class of such employees, against those risks which the corporation may insure or self-insure under paragraph 50.

Reciprocal
contracts of
indemnity
R.S.O. 1980,
c. 218

(a) Notwithstanding subsections 340 (1) and (2) of the *Insurance Act*, any surplus funds and the reserve fund of a municipal reciprocal exchange may be invested only in such securities as a municipality may invest in under subsection 165 (2).

- (b) The moneys raised for a reserve fund of a municipal reciprocal exchange may be expended, pledged or applied to a purpose other than that for which the fund was established if two-thirds of the municipalities that are members of the exchange together with two-thirds of the municipalities that previously were members of the exchange and that may be subject to claims arising while they were members of the exchange, agree in writing and if section 339 of the *Insurance Act* is complied with.

R.S.O. 1980,
c. 218

- (c) Clauses (a) to (d) of paragraph 50 apply, with necessary modifications, to the powers conferred by this paragraph.

8. Paragraph 96 of section 210 of the said Act is amended by adding thereto the following clause:

- (c) No fees are payable under clause (b) in respect of a child residing in a trailer if the trailer is liable for assessment and taxation under the *Assessment Act*.

R.S.O. 1980,
c. 31

9.—(1) Clause 218 (1) (b) of the said Act is repealed and the following substitute therefor:

- (b) “capital cost” means the cost of constructing sewage works or water works, inclusive of all items of cost usually and properly chargeable to capital account, and where applicable, the interest amounts payable on the debentures to be issued for the works and the imputed interest costs determined under subsection (2a).

(2) Section 218 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 50, section 25, is further amended by adding thereto the following subsections:

- (2a) Where a by-law passed under subsection (2) specifies that the capital cost of the works is to include the imputed interest cost on money supplied from the funds of the municipality to finance the owners' share of the cost of the works, the rate of interest to be applied, for determining the imputed interest cost shall be the interest rate, as certified in writing by the treasurer, that the municipality would have expected to pay to finance the owners' share of the cost of the work by debentures issued on the day named in the certificate having a schedule of maturity dates that would have coincided with the system of collecting the sewer rates or water works rates as established under clause (19) (a).

Rate of
interest for
long-term
financing

(2b) A day named in a certificate under subsection (2a), if it is prior to the day that the by-law specifying the capital cost of the works receives first reading, shall not be earlier than sixty days prior to that first reading.

Date of
certificate

(3) Subsection 218 (9) of the said Act is repealed and the following substituted therefor:

(9) Where debentures are issued in respect of sewage or water works, the revenue derived in any year from a rate imposed under subsection (2) for the capital cost of the works shall be applied and used towards payment of principal and interest due in that year upon the debentures, and the council shall reduce the amount of the debenture rate to be levied for such debentures in any year upon the rateable property liable therefor by the amount of revenue estimated to be derived in that year from the rate imposed under subsection (2).

Revenue
from rates

(9a) The revenue from the sewer rate or water works rate imposed under subsection (2), if not required for payment of principal and interest due as specified in subsection (9), may be credited by the municipality to its general revenues.

Idem

10. Subsection 248 (1) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 8, section 16, is repealed and the following substituted therefor:

(1) The council of every municipality may at any time pass by-laws,

Liability
insurance,
payment of
damages, etc.

(a) for contracting for insurance;

(b) notwithstanding the *Insurance Act*, to enable the municipality to act as an insurer; and

R.S.O. 1980,
c. 218

(c) for exchanging with other municipalities in Ontario reciprocal contracts of indemnity or inter-insurance in accordance with Part XIII of the *Insurance Act*,

for the purpose of protecting the members of the council or of any local board thereof, as defined in the *Municipal Affairs Act*, against risks that may involve liability on the part of the members and for paying premiums therefor or for paying any damages or costs awarded against any such members or expenses incurred by them as a result of any action or other proceeding, except a proceeding brought under the *Municipal Conflict of Interest Act*, 1983, arising out of acts or omissions done or made by them in their capacity as members or officers of the municipality or local board including while acting in the performance of any statutory duty or for paying any sum

R.S.O. 1980,
c. 303

1983, c. 8

required in connection with the settlement of an action or other proceeding and for assuming the cost of defending the member in such an action or other proceeding.

R.S.O. 1980,
c. 218 does
not apply

(1a) The *Insurance Act* does not apply to a municipality acting as an insurer for the purposes of this section.

Investment of
funds

(1b) Notwithstanding subsections 340 (1) and (2) of the *Insurance Act*, any surplus funds and the reserve fund of a municipal reciprocal exchange may be invested only in such securities as a municipality may invest in under subsection 165 (2) of this Act.

Reserve fund

(1c) The moneys raised for a reserve fund of a municipal reciprocal exchange may be expended, pledged or applied to a purpose other than that for which the fund was established if two-thirds of the municipalities that are members of the exchange together with two-thirds of the municipalities that previously were members of the exchange and that may be subject to claims arising while they were members of the exchange agree in writing and if section 339 of the *Insurance Act* is complied with.

R.S.O. 1980,
c. 218

11. The said Act is amended by adding thereto the following section:

Penalties for
contravention
of sewage
by-laws

321b.—(1) Notwithstanding section 321, the council of a municipality may pass by-laws for providing that any person who contravenes a by-law passed by the council that regulates or prohibits the discharge of any matter into a sewage system is guilty of an offence and for providing for the imposition of fines of not more than \$5,000 on every person who is convicted of a first offence and \$10,000 for any subsequent offence under any such by-law.

Corporations

(2) Notwithstanding subsection (1), where a corporation is convicted of an offence under a by-law passed under subsection (1), the maximum penalty that may be imposed upon the corporation is \$25,000 for the first offence and \$50,000 for any subsequent offence.

12. Subsection 386 (6) of the said Act is amended by striking out “fourteen days” in the seventh and eighth lines and inserting in lieu thereof “twenty-one days or such longer period as the council may authorize”.

13.—(1) Subsection 387 (1) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 37, is further amended,

- (a) by striking out “fourteen” in the second line and inserting in lieu thereof “twenty-one”; and
- (b) by inserting after “386” in the fourth line “or where a longer period has been authorized under subsection 386 (6), such taxes remain unpaid at the expiry of that period”.

(2) Subsection 387 (2) of the said Act is amended,

- (a) by striking out “fourteen” in the second line and inserting in lieu thereof “twenty-one”; and
- (b) by inserting after “386” in the fourth line “or where a longer period has been authorized under subsection 386 (6), such taxes remain unpaid at the expiry of that period”.

14. Subsection 495 (2) of the said Act is amended by inserting after “496” in the third line “or 496a”.

15. The said Act is further amended by adding thereto the following section:

496a.—(1) An application to the council for the cancellation, reduction or refund of taxes levied in the years indicated in subsections (5) and (6) may be made by any person who was overcharged by reason of any gross or manifest error in the preparation of the assessment roll that was an error of fact, which may include but is not limited to, clerical errors, the transposition of figures or typographical errors, but not an error in judgment in making the assessment upon which the taxes have been levied.

Reduction of taxes, etc., for clerical errors

(2) The council may by by-law appoint a committee composed of at least three persons who are members of council or who are eligible to be elected members of council but these persons shall not be employees of the municipality or of a local board as defined in the *Municipal Affairs Act* and the committee shall hear the applications under subsection (13) and section 106 applies thereto.

Delegation to committee

(3) An application may be made from the 1st day of March until the 31st day of December of any year, by giving written notice to the clerk of the municipality.

When application to be made

(4) Where the Minister of Revenue extends the time for the return of the assessment roll of a municipality under subsection 35 (2) of the *Assessment Act*, an application under this section to the council of that municipality shall not be made

Idem

R.S.O. 1980, c. 31

earlier than sixty-one days after the assessment roll is returned.

Application,
general

(5) A separate application may be made for taxes levied in each or either of the two years preceding the year in which the application is made if the assessment on the property or business, as the case may be, has not been the subject of an appeal, complaint or application under section 34, 39 or 50 of the *Assessment Act*, in either of those years or in the year in which an application is made under this section, but where an error is made subsequent to all such appeals, complaints or applications under section 34, 39 or 50 of the *Assessment Act*, an application may be made under this section in respect to that error.

R.S.O. 1980,
c. 31

Application
in 1988

(6) Notwithstanding subsection (5), separate applications may be made in 1988 for taxes levied in each or any of the years 1982, 1983, 1984 and 1985 if,

- (a) the applicant has advised the municipality of the error before the 31st day of May, 1987; and
- (b) the assessment on the property or business, as the case may be, has not been the subject of an appeal, complaint or application under section 34, 39 or 50 of the *Assessment Act* in any of the years 1982 to 1988, but where an error is made subsequent to all such appeals, complaints or applications under section 34, 39 or 50 of the *Assessment Act*, an application may be made under this section in respect to that error.

Notice of
application

(7) The clerk shall forward a copy of the application to the assessment commissioner and the regional registrar of the Assessment Review Board.

When
application
not valid

(8) An application is not valid and shall not be heard by council unless,

- (a) the application complies with subsection (5) or (6); and
- (b) the assessment commissioner has confirmed an error in the assessment referred to in the application.

Notification
by clerk

(9) Where an application is not valid under subsection (8), the clerk shall notify the applicant in writing and the reasons therefor.

(10) Notice of a hearing by the council under this section shall be given by mail by the clerk of the municipality to the applicant not less than fourteen days before the date upon which the application is to be dealt with by the council.

Notice of
hearing

(11) The council may reject the application or,

Determi-
nation by
council

- (a) if the taxes have not been paid, cancel the whole of the taxes or reduce the taxes;
- (b) if the taxes have been paid in full, order a refund of the whole of the taxes or any part thereof; or
- (c) if the taxes have been paid in part, order a refund of the whole of the taxes paid or any part thereof and reduce or cancel the portion of the taxes unpaid.

(12) The decision of the council is final.

Decision final

(13) The council shall hear and dispose of every application not later than the 30th day of April in the year following the year in which the application is made and the clerk shall thereupon cause notice of the decision to be given by mail to the persons to whom notice of the hearing of the application was given.

Hearing

(14) Notwithstanding subsection (13), where council has appointed a committee to hear applications, the committee shall hear every application before the 31st day of March in the year following the year in which the application is made.

Idem, when
committee
appointed

(15) The clerk shall deliver or mail a copy of the notice of a decision of council to the assessment commissioner, but failure to comply with this subsection does not invalidate the proceedings taken under this section.

Notice of
decision to
assessment
commissioner

(16) The Lieutenant Governor in Council may make regulations prescribing errors that are to be included or excluded as errors of fact under subsection (1).

Regulations

16. The said Act is further amended by adding thereto the following section:

498a.—(1) The Minister may pay taxes due to a municipality by a tenant, as defined in the *Assessment Act*, of land owned by Her Majesty in right of Ontario or in which Her Majesty in right of Ontario has an interest.

Tax
arrangements
for tenants of
provincial
government
R.S.O. 1980,
c. 31

Idem

(2) Where the Minister pays the taxes due in any year on behalf of a tenant under subsection (1) in respect of land occupied by the tenant and the municipality accepts the payment, all future notices of taxes due to the municipality in respect of the tenant's occupancy of the land shall be sent to the Minister and not to the tenant.

Tenant's responsibility

(3) Where the Minister pays taxes on behalf of a tenant under subsection (1), the tenant ceases to be liable to the municipality for the taxes due but the Minister may recover the amount of the taxes in whole or in part from the tenant and the amount billed to a tenant by the Minister under this subsection shall be deemed to be a debt of the tenant owing to Her Majesty in right of Ontario.

Amount deemed to be taxes

(4) An amount received by a municipality under subsection (1) shall be treated in the same manner as if paid as taxes by the tenant.

17. Subsection 14 (1) of the *Municipal Conflict of Interest Act, 1983*, being chapter 8, is repealed and the following substituted therefor:

Insurance
R.S.O. 1980,
c. 302

(1) Notwithstanding section 248 of the *Municipal Act*, the council of every municipality may at any time pass by-laws,

(a) for contracting for insurance;

R.S.O. 1980,
c. 218

(b) notwithstanding the *Insurance Act*, to enable the municipality to act as an insurer; and

R.S.O. 1980,
c. 218

(c) for exchanging with other municipalities in Ontario reciprocal contracts of indemnity or inter-insurance in accordance with Part XIII of the *Insurance Act*,

to protect a member of the council or of any local board thereof who has been found not to have contravened section 5, against any costs or expenses incurred by the member as a result of a proceeding brought under this Act, and for paying on behalf of or reimbursing the member for any such costs or expenses.

R.S.O. 1980,
c. 218 does
not apply

(1a) The *Insurance Act* does not apply to a municipality acting as an insurer for the purposes of subsection (1).

Surplus funds

(1b) Notwithstanding subsections 340 (1) and (2) of the *Insurance Act*, any surplus funds and the reserve fund of a municipal reciprocal exchange may be invested only in such securities as a municipality may invest in under subsection 165 (2) of the *Municipal Act*.

R.S.O. 1980,
c. 302

(1c) The moneys raised for a reserve fund of a municipal reciprocal exchange may be expended, pledged or applied to a purpose other than that for which the fund was established if two-thirds of the municipalities that are members of the exchange together with two-thirds of the municipalities that previously were members of the exchange and that may be subject to claims arising while they were members of the exchange agree in writing and if section 339 of the *Insurance Act* is complied with.

Reserve
funds

R.S.O. 1980,
c. 218

18.—(1) Subsection 83 (1) of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, is amended by inserting after “note” in the fifth line “or bankers’ acceptance”.

(2) Subsection 83 (5) of the said Act is repealed and the following substituted therefor:

(5) A promissory note or bankers’ acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

Execution of
borrowing
instruments

(3) Subsection 83 (6) of the said Act is amended by inserting after “notes” in the second line and in the fourth line in each instance “or bankers’ acceptances” and by inserting after “note” in the fifth line “or bankers’ acceptance”.

(4) Subsection 83 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

(5) Section 83 of the said Act is amended by adding thereto the following subsections:

(13) For the purposes of this section, where the District Corporation raises money by means of a bankers’ acceptance, the District Corporation shall be deemed to be borrowing money.

Deeming
provision

(14) A bankers’ acceptance authorized under this section,

Bankers’
acceptance

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

R.S.C. 1970,
c. B-5

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

1980-81,
c. 40 (Can.)

(c) may be discounted.

Interest on
promissory
note

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

(6) Subsection 108 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 48, section 9, is amended by inserting after "50" in the third line "50a".

19.—(1) Subsection 222 (1) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is amended by inserting after "note" in the fifth line "or bankers' acceptance".

(2) Subsection 222 (6) of the said Act is repealed and the following substituted therefor:

Execution of
borrowing
instruments

(6) A promissory note or bankers' acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

(3) Subsection 222 (7) of the said Act is amended by inserting after "notes" in the second line and in the fourth line in each instance "or bankers' acceptances" and by inserting after "note" in the fifth line "or bankers' acceptance".

(4) Subsection 222 (9) of the said Act is amended by striking out "sealed with the corporate seal and" in the second line.

(5) Section 222 of the said Act is amended by adding thereto the following subsections:

Deeming
provision

(14) For the purposes of this section, where the Metropolitan Corporation raises money by means of a bankers' acceptance, the Metropolitan Corporation shall be deemed to be borrowing money.

Bankers'
acceptance

(15) A bankers' acceptance authorized under this section,

R.S.C. 1970
c. B-5

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

1980-81,
c. 40 (Can.)

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

(c) may be discounted.

Interest on
promissory
note

(16) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as

may be borrowed thereon from the time when such money is actually lent.

(6) Subsection 245 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 18, section 17, is amended by inserting after “50” in the third line “50a”.

20.—(1) Subsection 92 (1) of the *County of Oxford Act*, being chapter 365 of the Revised Statutes of Ontario, 1980, is amended by inserting after “note” in the fifth line “or bankers’ acceptance”.

(2) Subsection 92 (5) of the said Act is repealed and the following substituted therefor:

(5) A promissory note or bankers’ acceptance made under the authority of this section shall be signed by the warden or by some other person authorized by by-law to sign it and by the treasurer.

Execution of
borrowing
instruments

(3) Subsection 92 (6) of the said Act is amended by inserting after “notes” in the second line and in the fourth line in each instance “or bankers’ acceptances” and by inserting after “note” in the fifth line “or bankers’ acceptance”.

(4) Subsection 92 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

(5) Section 92 of the said Act is amended by adding thereto the following subsections:

(13) For the purposes of this section, where the County raises money by means of a bankers’ acceptance, the County shall be deemed to be borrowing money.

Deeming
provision

(14) A bankers’ acceptance authorized under this section,

Bankers’
acceptance

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

R.S.C. 1970,
c. B-5

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

1980-81,
c. 40 (Can.)

(c) may be discounted.

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

Interest on
promissory
note

(6) Subsection 117 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 66, section 6, is amended by inserting after “50” in the fifth line “50a”.

21.—(1) Subsection 104 (1) of the *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, is amended by inserting after “note” in the fifth line “or bankers’ acceptance”.

(2) Subsection 104 (5) of the said Act is repealed and the following substituted therefor:

Execution of
borrowing
instruments

(5) A promissory note or bankers’ acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

(3) Subsection 104 (6) of the said Act is amended by inserting after “notes” in the second line and in the fourth line in each instance “or bankers’ acceptances” and by inserting after “note” in the fifth line “or bankers’ acceptance”.

(4) Subsection 104 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

(5) Section 104 of the said Act is amended by adding thereto the following subsections:

Deeming
provision

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers’ acceptance, the Regional Corporation shall be deemed to be borrowing money.

Bankers’
acceptance

(14) A bankers’ acceptance authorized under this section,

R.S.C. 1970,
c. B-5

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

1980-81,
c. 40 (Can.)

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

(c) may be discounted.

Interest on
promissory
note

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

(6) Subsection 129 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 5 and amended

by the Statutes of Ontario, 1987, chapter 22, section 1, is further amended by inserting after “50” in the fifth line “50a”.

22.—(1) Subsection 86 (1) of the *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised Statutes of Ontario, 1980, is amended by inserting after “note” in the fifth line “or bankers’ acceptance”.

(2) Subsection 86 (5) of the said Act is repealed and the following substituted therefor:

(5) A promissory note or bankers’ acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

Execution of
borrowing
instruments

(3) Subsection 86 (6) of the said Act is amended by inserting after “notes” in the second line and in the fourth line in each instance “or bankers’ acceptances” and by inserting after “note” in the fifth line “or bankers’ acceptance”.

(4) Subsection 86 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

(5) Section 86 of the said Act is amended by adding thereto the following subsections:

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers’ acceptance, the Regional Corporation shall be deemed to be borrowing money.

Deeming
provision

(14) A bankers’ acceptance authorized under this section,

Bankers’
acceptance

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

R.S.C. 1970,
c. B-5

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

1980-81,
c. 40 (Can.)

(c) may be discounted.

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

Interest on
promissory
note

(6) Subsection 111 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 12 and amended

by the Statutes of Ontario, 1987, chapter 22, section 2, is further amended by inserting after “50” in the fifth line “50a”.

23.—(1) Subsection 97 (1) of the *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, is amended by inserting after “note” in the fifth line “or bankers’ acceptance”.

(2) Subsection 97 (5) of the said Act is repealed and the following substituted therefor:

Execution of
borrowing
instruments

(5) A promissory note or bankers’ acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

(3) Subsection 97 (6) of the said Act is amended by inserting after “notes” in the second line and in the fourth line in each instance “or bankers’ acceptances” and by inserting after “note” in the fifth line “or bankers’ acceptance”.

(4) Subsection 97 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

(5) Section 97 of the said Act is amended by adding thereto the following subsections:

Deeming
provision

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers’ acceptance, the Regional Corporation shall be deemed to be borrowing money.

Bankers’
acceptance

(14) A bankers’ acceptance authorized under this section,

R.S.C. 1970,
c. B-5

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

1980-81,
c. 40 (Can.)

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

(c) may be discounted.

Interest on
promissory
note

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

(6) Subsection 122 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 17 and amended

by the Statutes of Ontario, 1987, chapter 22, section 3, is further amended by inserting after “50” in the fifth line “50a”.

24.—(1) Subsection 108 (1) of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, is amended by inserting after “note” in the fifth line “or bankers’ acceptance”.

(2) Subsection 108 (5) of the said Act is repealed and the following substituted therefor:

(5) A promissory note or bankers’ acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

Execution of
borrowing
instruments

(3) Subsection 108 (6) of the said Act is amended by inserting after “notes” in the second line and in the fourth line in each instance “or bankers’ acceptances” and by inserting after “note” in the fifth line “or bankers’ acceptance”.

(4) Subsection 108 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

(5) Section 108 of the said Act is amended by adding thereto the following subsections:

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers’ acceptance, the Regional Corporation shall be deemed to be borrowing money.

Deeming
provision

(14) A bankers’ acceptance authorized under this section,

Bankers’
acceptance

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

R.S.C. 1970,
c. B-5

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

1980-81,
c. 40 (Can.)

(c) may be discounted.

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

Interest on
promissory
note

(6) Subsection 133 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 46, section 4 and amended

by the Statutes of Ontario, 1987, chapter 22, section 4, is further amended by inserting after "50" in the fifth line "50a".

25.—(1) Subsection 137 (1) of the *Regional Municipality of Niagara Act*, being chapter 438 of the Revised Statutes of Ontario, 1980, is amended by inserting after "note" in the fifth line "or bankers' acceptance".

(2) Subsection 137 (5) of the said Act is repealed and the following substituted therefor:

Execution of
borrowing
instruments

(5) A promissory note or bankers' acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the financial officer.

(3) Subsection 137 (6) of the said Act is amended by inserting after "notes" in the second line and in the fourth line in each instance "or bankers' acceptances" and inserting after "note" in the fifth line "or bankers' acceptance".

(4) Subsection 137 (8) of the said Act is amended by striking out "sealed with the corporate seal and" in the second line.

(5) Section 137 of the said Act is amended by adding thereto the following subsections:

Deeming
provision

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers' acceptance, the Regional Corporation shall be deemed to be borrowing money.

Bankers'
acceptance

(14) A bankers' acceptance authorized under this section,

R.S.C. 1970,
c. B-5

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

1980-81,
c. 40 (Can.)

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

(c) may be discounted.

Interest on
promissory
note

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

(6) Subsection 161 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 31 and amended

by the Statutes of Ontario, 1987, chapter 22, section 5, is further amended by inserting after “50” in the fifth line “50a”.

26.—(1) Subsection 128 (1) of the *Regional Municipality of Ottawa-Carleton Act*, being chapter 439 of the Revised Statutes of Ontario, 1980, is amended by inserting after “note” in the fifth line “or bankers’ acceptance”.

(2) Subsection 128 (5) of the said Act is repealed and the following substituted therefor:

(5) A promissory note or bankers’ acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

Execution of borrowing instruments

(3) Subsection 128 (6) of the said Act is amended by inserting after “notes” in the second line and in the fourth line in each instance “or bankers’ acceptances” and by inserting after “note” in the fifth line “or bankers’ acceptance”.

(4) Subsection 128 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

(5) Section 128 of the said Act is amended by adding thereto the following subsections:

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers’ acceptance, the Regional Corporation shall be deemed to be borrowing money.

Deeming provision

(14) A bankers’ acceptance authorized under this section,

Bankers’ acceptance

- (a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);
 - (b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and
 - (c) may be discounted.
- R.S.C. 1970, c. B-5
1980-81, c. 40 (Can.)

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

Interest on promissory note

(6) Subsection 163 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 35 and amended

by the Statutes of Ontario, 1987, chapter 22, section 6, is further amended by inserting after “50” in the third line “50a”.

27.—(1) Subsection 92 (1) of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, is amended by inserting after “note” in the fifth line “or bankers’ acceptance”.

(2) Subsection 92 (5) of the said Act is repealed and the following substituted therefor:

Execution of
borrowing
instruments

(5) A promissory note or bankers’ acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

(3) Subsection 92 (6) of the said Act is amended by inserting after “notes” in the second line and in the fourth line in each instance “or bankers’ acceptances” and by inserting after “note” in the fifth line “or bankers’ acceptance”.

(4) Subsection 92 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

(5) Section 92 of the said Act is amended by adding thereto the following subsections:

Deeming
provision

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers’ acceptance, the Regional Corporation shall be deemed to be borrowing money.

Bankers’
acceptance

(14) A bankers’ acceptance authorized under this section,

R.S.C. 1970,
c. B-5

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

1980-81,
c. 40 (Can.)

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

(c) may be discounted.

Interest on
promissory
note

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

(6) Subsection 117 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 41 and amended

by the Statutes of Ontario, 1987, chapter 22, section 7, is further amended by inserting after “50” in the fifth line “50a”.

28.—(1) Subsection 79 (1) of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is amended by inserting after “note” in the fifth line “or bankers’ acceptance”.

(2) Subsection 79 (5) of the said Act is repealed and the following substituted therefor:

(5) A promissory note or bankers’ acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

Execution of
borrowing
instruments

(3) Subsection 79 (6) of the said Act is amended by inserting after “notes” in the second line and in the fourth line in each instance “or bankers’ acceptances” and by inserting after “note” in the fifth line “or bankers’ acceptance”.

(4) Subsection 79 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

(5) Section 79 of the said Act is amended by adding thereto the following subsections:

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers’ acceptance, the Regional Corporation shall be deemed to be borrowing money.

Deeming
provision

(14) A bankers’ acceptance authorized under this section,

Bankers’
acceptance

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

R.S.C. 1970,
c. B-5

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

1980-81,
c. 40 (Can.)

(c) may be discounted.

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

Interest on
promissory
note

(6) Subsection 103 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 48 and amended

by the Statutes of Ontario, 1987, chapter 22, section 8, is further amended by inserting after "50" in the third line "50a".

29.—(1) Subsection 126 (1) of the *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, is amended by inserting after "note" in the fifth line "or bankers' acceptance".

(2) Subsection 126 (5) of the said Act is repealed and the following substituted therefor:

Execution of
borrowing
instruments

(5) A promissory note or bankers' acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer.

(3) Subsection 126 (6) of the said Act is amended by inserting after "notes" in the second line and in the fourth line in each instance "or bankers' acceptances" and by inserting after "note" in the fifth line "or bankers' acceptance".

(4) Subsection 126 (8) of the said Act is amended by striking out "sealed with the corporate seal and" in the second line.

(5) Section 126 of the said Act is amended by adding thereto the following subsections:

Deeming
provision

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers' acceptance, the Regional Corporation shall be deemed to be borrowing money.

Bankers'
acceptance

(14) A bankers' acceptance authorized under this section,

R.S.C. 1970,
c. B-5

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

1980-81,
c. 40 (Can.)

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

(c) may be discounted.

Interest on
promissory
note

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

(6) Subsection 151 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 54 and amended

by the Statutes of Ontario, 1987, chapter 22, section 9, is further amended by inserting after “50” in the third line “50a”.

30.—(1) Subsection 129 (1) of the *Regional Municipality of York Act*, being chapter 443 of the Revised Statutes of Ontario, 1980, is amended by inserting after “note” in the fifth line “or bankers’ acceptance”.

(2) Subsection 129 (5) of the said Act is repealed and the following substituted therefor:

(5) A promissory note or bankers’ acceptance made under the authority of this section shall be signed by the chairman or by some other person authorized by by-law to sign it and by the financial officer.

Execution of
borrowing
instruments

(3) Subsection 129 (6) of the said Act is amended by inserting after “notes” in the second line and in the fourth line in each instance “or bankers’ acceptances” and by inserting after “note” in the fifth line “or bankers’ acceptance”.

(4) Subsection 129 (8) of the said Act is amended by striking out “sealed with the corporate seal and” in the second line.

(5) Section 129 of the said Act is amended by adding thereto the following subsections:

(13) For the purposes of this section, where the Regional Corporation raises money by means of a bankers’ acceptance, the Regional Corporation shall be deemed to be borrowing money.

Deeming
provision

(14) A bankers’ acceptance authorized under this section,

Bankers’
acceptance

(a) shall be drawn as a bill of exchange under the *Bills of Exchange Act* (Canada);

R.S.C. 1970,
c. B-5

(b) shall be accepted by a bank to which the *Bank Act* (Canada) applies; and

1980-81,
c. 40 (Can.)

(c) may be discounted.

(15) A promissory note authorized under this section may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent.

Interest on
promissory
note

(6) Subsection 153 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 59 and amended

by the Statutes of Ontario, 1987, chapter 22, section 10, is further amended by inserting after "50" in the third line "50a".

Commence-
ment

31.—(1) This Act, except sections 5, 8, 12, 13 and 16, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 5, 8 and 16 shall be deemed to have come into force on the 1st day of January, 1987.

Idem

(3) Sections 12 and 13 come into force on the 1st day of January, 1989.

Short title

32. The short title of this Act is the *Municipal Statute Law Amendment Act, 1988*.

Bill 60

An Act respecting the Sale of Farm Machinery and Equipment in Ontario

Mr. Wildman



1st Reading December 7th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to regulate the sale of farm machinery and equipment in Ontario. The Bill establishes The Farm Machinery and Equipment Board to carry out several tasks respecting the sale of farm machinery and equipment. The Board is given authority to investigate complaints and mediate disputes arising from the sale of farm machinery and equipment and may establish inventory guidelines for vendors and dealers of farm machinery and equipment. The Board may also make recommendations to the Minister concerning safety requirements and parts standardization for farm machinery and equipment.

Among the other principal features of the Bill are the following:

1. Dealers are required to provide certain emergency repair parts on seventy-two hours notice. (s. 6)
2. Where a dealer fails to make repair parts available within the times required by the Bill, the dealer is liable to pay to the purchaser an amount equal to one-half the normal rental rate for the farm machinery and equipment. (s. 7)
3. The Bill sets out warranties applicable to the sale of farm machinery and equipment. (s. 8)

Bill 60 –**1987**

**An Act respecting the
Sale of Farm Machinery and Equipment in Ontario**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“Board” means The Farm Machinery and Equipment Board;

“dealer” means a person operating a retail establishment or business for the sale of new farm machinery and equipment and repair parts and providing repair services for farm machinery and equipment;

“farm machinery and equipment” means any farm machine or farm equipment,

(a) the retail selling price of which is \$350 or more, and

(b) that is used or intended for use in any type of farming operations,

but does not include a passenger automobile, a farm truck, jeep, snowmobile or all-terrain vehicle;

“Minister” means the Minister of Agriculture and Food;

“part” or “repair part” means a part used or to be used in the repair of farm machinery and equipment;

“vendor” means a manufacturer or supplier of farm machinery and equipment or repair parts who sells, consigns or delivers farm machinery and equipment or repair parts to a person for eventual sale by a dealer.

2. This Act does not apply to the sale of farm machinery and equipment, Application

- (a) by farmers by auction or in the ordinary course of their farming operations; or
- (b) by an executor or administrator of an estate or by a public official acting under judicial process; or
- (c) to a dealer.

Composition
of Board

3.—(1) A Board to be known as The Farm Machinery and Equipment Board is hereby established and shall be composed of such members appointed by the Lieutenant Governor in Council as the Lieutenant Governor in Council may consider necessary.

Chairman
and vice-
chairman

(2) The Lieutenant Governor in Council shall designate a chairman and one or more vice-chairmen from among the members of the Board.

Acting
chairman

(3) If, for any reason, there is no chairman or vice-chairman at a meeting, the members of the Board present at the meeting shall appoint an acting chairman who shall act as and have all the powers of the chairman during the meeting.

Term of
office

(4) Members of the Board shall hold office during pleasure.

Expert
assistance

(5) The Board may appoint from time to time one or more persons having technical or special knowledge of any matter to inquire into and report to the Board and to assist the Board in any capacity in respect of any matter before it.

Exercise of
powers

(6) The powers of the Board shall be exercised by resolution and the Board may pass resolutions governing the calling of and the proceedings at meetings and specifying the powers and duties of employees of the Board and generally dealing with the carrying out of its function.

Duties

(7) The Board shall perform such duties as are assigned to it by or under this and any other Act and shall administer and enforce this Act and the regulations.

Powers of
Board

(8) The Board may,

- (a) receive and investigate complaints made to it concerning farm machinery and equipment;
- (b) mediate disputes between purchasers and vendors or dealers of farm machinery and equipment arising from the sale of farm machinery and equipment;

- (c) take such action as may be necessary to reduce or correct unreasonable delays in the delivery of repair parts and unreasonable charges for them or recommend to the Minister appropriate action to alleviate such problems;
- (d) make recommendations to the Minister respecting standardization of parts for farm machinery and equipment;
- (e) make recommendations to the Minister with respect to safety requirements for farm machinery and equipment; and
- (f) establish inventory guidelines for vendors and dealers of farm machinery and equipment.

4.—(1) Every vendor who sells or offers for sale farm machinery and equipment or repair parts in Ontario shall file with the Board, at least once in every twelve month period, all retail price lists with respect to the farm machinery and equipment or repair parts.

Filing of
retail price
lists

(2) Every vendor shall file together with the retail price list a list showing the names and addresses of all of the vendor's dealers in Ontario.

Names and
addresses of
dealers

5.—(1) A dealer who sells new farm machinery and equipment to a purchaser shall ensure that repair parts for the farm machinery and equipment shall be available for a period of ten years from the date of the purchase and, where within that period a person orders repair parts for the farm machinery and equipment purchased from the dealer, the dealer shall ensure that those repair parts are available to the person within fourteen days from the date of the order, unless delivery of the parts cannot be made within that time because of strikes or other conditions beyond the control of the dealer.

Repair parts
to be
available

(2) Subsection (1) applies with necessary modifications to the vendor who sells, consigns or delivers the new farm machinery and equipment to the dealer for resale.

Idem

6.—(1) Every contract for the purchase of new,

Emergency
repair parts

- (a) seeding;
- (b) haying;
- (c) harvesting; or

(d) milking,

machinery and equipment, shall include a provision to enable the purchaser to order emergency repair parts from the dealer at any time between the hours of 7 o'clock in the morning and 11 o'clock in the evening of any day except Sunday when the machinery and equipment is reasonably required for use.

Posting of
procedure by
dealer

(2) The method or procedure for ordering emergency repair parts shall be clearly set out in the contract of purchase.

When
emergency
service shall
be used

(3) The emergency repair service shall be used by the purchaser only when the farm machinery and equipment breaks down at a time when it is reasonably required and cannot be operated to perform the intended functional requirements set out in the contract of purchase, with reasonable efficiency.

Notice to
dealer

(4) A purchaser who orders repair parts shall notify the dealer if the parts are required for emergency repairs and the dealer shall in turn so notify the vendor if the dealer does not have those parts.

Time for
supplying
emergency
repair parts

(5) A dealer who is notified of the need for emergency repair parts shall ensure that those parts are available at the dealer's place of business to the purchaser within seventy-two hours from the time of the making of the order unless delivery of the parts cannot be made within that time because of strikes or conditions beyond the control of the dealer or vendor.

Idem

(6) Saturdays, Sundays and holidays shall not be included in calculating time under subsection (5).

Idem

(7) A vendor who is notified of the need for emergency repair parts shall ensure the parts are supplied to the dealer's place of business within the time period specified in subsection (5).

Price of
emergency
repair parts

(8) The price for emergency repair parts shall not exceed the price as set out in the retail list price except that the dealer or the vendor may add a service charge not exceeding \$15.

Definition

7.—(1) In this section, "prescribed rental rate" means the rental rate prescribed by the regulations as applicable for the farm machinery and equipment.

Payment for
delay in
delivering
repair parts

(2) Where a dealer from whom a purchaser orders repair parts fails to obtain those parts within the times specified in section 5 or 6, the dealer shall pay to the purchaser an amount

equal to one-half the prescribed rental rate from the date of the expiry of the time limit for delivery to the date on which the repair parts are made available to the purchaser at the dealer's place of business.

(3) The payment under subsection (2) shall be made only for the time during which the farm machinery and equipment would normally have been used. Payment for normal use

(4) In lieu of making payment, the dealer may supply the purchaser with other farm machinery and equipment that is suitable and capable of functioning properly and when the dealer does so it shall be supplied at one-half the prescribed rental rate. Alternative to payment

8.—(1) All farm machinery and equipment sold by a dealer shall carry a warranty against defects in parts, material and workmanship, Warranty

- (a) with respect to a tractor, for a minimum of 1,000 hours of use;
- (b) with respect to a self-propelled combine, for a minimum of 300 hours of use; and
- (c) for all other farm machinery and equipment, for at least one year,

and the warranty shall include the costs of defective parts, labour and transportation.

(2) In addition to the warranties set out in subsection (1), every new tractor and every new self-propelled combine sold by a dealer, with respect to the engine, transmission and differential or engine and power train, shall carry with it a warranty with respect to parts, labour and transportation on a *pro rata* basis, for an additional 2,000 hours of use for a tractor and 400 hours of use for a self-propelled combine, but in any case the total warranty period shall not extend beyond five years from the date of the original purchase. Additional warranty

(3) Where, during the warranty period, parts in farm machinery and equipment are found to be defective, the dealer or the vendor, as the case may be, shall replace those parts promptly and, where a defective part causes damage to any other part, the damaged part shall likewise be replaced by the dealer or vendor. Replacement of defective parts

Warranty on parts

(4) Where parts are replaced by a dealer or vendor under subsection (3), the new parts are subject to warranty for a minimum of one year from the date of replacement.

Non-application of warranty

(5) The warranties set out in this section do not apply,

- (a) where the deterioration of parts is due to normal wear and tear; or
- (b) to any failure of farm machinery and equipment to perform satisfactorily its intended functions where the failure is caused by the negligence of the purchaser or operator thereof.

Liability under warranty

9.—(1) Where a person purchases new farm machinery and equipment,

- (a) the manufacturer; and
- (b) the dealer or vendor who sold it to the purchaser,

are jointly and severally liable to observe, keep and perform every warranty set out in this Act.

Reimbursement by vendor

(2) Where the fault for the late delivery of parts for farm machinery and equipment is the fault of the vendor and not of the dealer, the vendor shall reimburse the dealer for any payment made by the dealer or liability incurred by the dealer under section 7.

Offence

10.—(1) Every person who knowingly contravenes any provision of this Act or the regulations and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on summary conviction is liable to a fine of not more than \$3,000.

Corporations

(2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein.

Regulations

11. Subject to the approval of the Lieutenant Governor in Council, the Board may make regulations,

- (a) requiring the filing of such information and returns with the Board as the Board considers necessary to carry out the purposes of this Act;
- (b) prescribing rental rates for the purpose of section 7;

- (c) providing forms for the purpose of this Act and providing for their use.

12. This Act comes into force on the day it receives Royal Assent. Commence-
ment

13. The short title of this Act is the *Farm Machinery and Equipment Act, 1987*. Short title

Bill 61

An Act to amend the Municipality of Metropolitan Toronto Act

The Hon. J. Smith
Solicitor General

1st Reading December 8th, 1987

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTE

The purpose of the Bill is to increase the size of the Metropolitan Board of Commissioners of Police from five to seven members. Under the Bill, the Metropolitan Council and the Lieutenant Governor in Council will each appoint one additional member to the Board.

Bill 61**1987**

**An Act to amend the
Municipality of Metropolitan Toronto Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clauses 177 (1) (b) and (c) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1983, chapter 56, section 10, are repealed and the following substituted therefor:

- (b) two members of the Metropolitan Council appointed by the Metropolitan Council; and
- (c) four persons appointed by the Lieutenant Governor in Council.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Municipality of Metropolitan Toronto Amendment Act, 1987*. Short title

Bill 61

(Chapter 12
Statutes of Ontario, 1988)

An Act to amend the
Municipality of Metropolitan Toronto Act

The Hon. J. Smith
Solicitor General



<i>1st Reading</i>	December 8th, 1987
<i>2nd Reading</i>	January 7th, 1988
<i>3rd Reading</i>	January 7th, 1988
<i>Royal Assent</i>	January 7th, 1988

Bill 61 _

1987

**An Act to amend the
Municipality of Metropolitan Toronto Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clauses 177 (1) (b) and (c) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1983, chapter 56, section 10, are repealed and the following substituted therefor:

- (b) two members of the Metropolitan Council appointed by the Metropolitan Council; and
- (c) four persons appointed by the Lieutenant Governor in Council.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Municipality of Metropolitan Toronto Amendment Act, 1988*. Short title

Bill 62

An Act to amend the Health Protection and Promotion Act, 1983

Mr. Henderson

1st Reading December 8th, 1987

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTE

The purpose of the Bill is to allow clinics for sexually transmitted diseases and physicians to provide for anonymous testing, upon request, for exposure to the Acquired Immune Deficiency Syndrome (A.I.D.S.) virus. When testing has been performed on an anonymous basis, the clinics or physicians will report a positive test to the medical officer of health in a way that does not disclose the identity of the patient.

Bill 62 _

1987

**An Act to amend the
Health Protection and Promotion Act, 1983**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Health Protection and Promotion Act, 1983*, being chapter 10, is amended by adding thereto the following section:

39a.—(1) In this section, “clinic” means a clinic for sexually transmitted diseases established under this Act that is equipped, operated and maintained by a public hospital or board of health or is otherwise authorized by the Minister. Definition

(2) Upon the request of an individual, a clinic or a physician may provide for anonymous testing of the individual’s blood specimen for probable exposure to the Acquired Immune Deficiency Syndrome virus. Anonymous testing for A.I.D.S.

(3) Where a clinic or physician sends a request for the testing described in subsection (2) to a laboratory or specimen collection centre, the clinic or physician shall not include any information that would identify the individual whose specimen is to be tested. Request to laboratory or specimen collection centre

(4) Where testing is performed in accordance with subsection (2) and a clinic or physician determines, based on test results obtained from a laboratory or specimen collection centre, that an individual has tested positively for possible exposure to the Acquired Immune Deficiency Syndrome virus, in reporting the determination to the medical officer of health of the health unit in which the services of the clinic or physician are provided the clinic or physician shall do so in a manner that does not identify the individual who was tested. Report to medical officer of health

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is the *Health Protection and Promotion Amendment Act, 1987*.

Bill 63

An Act to amend the Laboratory and Specimen Collection Centre Licensing Act

Mr. Henderson



1st Reading December 8th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to permit laboratories and specimen collection centres to report a positive test result for exposure to the Acquired Immune Deficiency Syndrome (A.I.D.S.) virus to the medical officer of health in a way that does not disclose the identity of the individual tested when the testing has been performed on an anonymous basis.

Bill 63

1987

An Act to amend the Laboratory and Specimen Collection Centre Licensing Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Laboratory and Specimen Collection Centre Licensing Act*, being chapter 409 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

68a. Where a laboratory or specimen collection centre reports an Acquired Immune Deficiency Syndrome test result to the medical officer of health as required under this Act or the *Health Protection and Promotion Act*, 1983 and where the test was performed on an anonymous basis, the report shall be made in a manner that does not identify the individual who was tested.

Report to
medical
officer of
health on
A.I.D.S. test
1983, c. 10

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Laboratory and Specimen Collection Centre Licensing Amendment Act, 1987*.

Short title

Bill 64

An Act to amend the Health Insurance Act

Mr. Henderson



<i>1st Reading</i>	December 8th, 1987
<i>2nd Reading</i>	
<i>3rd Reading</i>	
<i>Royal Assent</i>	

EXPLANATORY NOTE

The purpose of the Bill is to make the provision of anonymous testing for the Acquired Immune Deficiency Syndrome (A.I.D.S.) virus by physicians, clinics for sexually transmitted diseases, laboratories and specimen collection centres an uninsured service for the purposes of the Ontario Health Insurance Plan.

Bill 64_

1987

An Act to amend the Health Insurance Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (h) of the *Health Insurance Act*, being chapter 197 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(h) “insured services” means such services of hospitals and health facilities as are prescribed by the regulations, all services rendered by physicians that are medically necessary and such other health care services as are rendered by such practitioners and under such conditions and limitations as are prescribed by the regulations, but not including,

(i) the services that a person is entitled to under the *Workers' Compensation Act*, the *Homes for Special Care Act*, or under any Act of the Parliament of Canada except the *Hospital Insurance and Diagnostic Services Act* (Canada) and the *Medical Care Act* (Canada), and

R.S.O. 1980,
cc. 539, 202

R.S.C. 1970,
cc. H-8, M-8

(ii) anonymous testing for possible exposure to Acquired Immune Deficiency Syndrome virus provided by a physician or clinic under the *Health Protection and Promotion Act*, 1983, or by a laboratory or specimen collection centre under the *Laboratory and Specimen Collection Centre Licensing Act*.

1983, c. 10

R.S.O. 1980,
c. 409

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Health Insurance Amendment Act*, 1987.

Short title

Bill 65

An Act to amend certain Acts administered by the Ministry of Agriculture and Food

The Hon. J. Riddell
Minister of Agriculture and Food



1st Reading December 9th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The key changes to the Acts are as follows:

SECTION 1. Ministry of Agriculture and Food Act

Subsection 1. In the proposed clause 1 (c) “person” is defined to include an unincorporated association to recognize an existing practice whereby unincorporated associations could appear as parties before the Farm Products Appeal Tribunal.

Subsection 3. Section 5 of the Act permits the Lieutenant Governor in Council to establish programs to provide grants for agricultural purposes. The amendment permits programs to provide for the conditions under which grants are repayable.

Subsection 4. The proposed subsections 5 (4) and (5) permit the Lieutenant Governor in Council to provide for non-assignable grants and for programs to come into effect prior to their approval date.

Subsection 5. The proposed section 9a creates the “Ontario Farm Products Marketing Commission” which replaces The Farm Products Marketing Board under the *Farm Products Marketing Act* and The Milk Commission of Ontario under the *Milk Act*. Complementary amendments are made to those Acts.

Subsection 6. The proposed subsection 11 (11) permits a delegate of the chairman of the Farm Products Appeal Tribunal to sign Tribunal documents.

Subsection 9. Subsections 13 (1) and (2) are amended to provide that policies may be appealed to the Tribunal.

Subsection 13 (4) of the Act permits the Farm Products Appeal Tribunal to refuse to hear an appeal where the appellant has had knowledge of the decision for more than two years. The proposed amendment would change this to one year.

Subsection 10. Subsection 13 (5) of the Act now provides that one cannot appeal to the Tribunal before first applying to the local board or marketing board for a reconsideration. This is replaced by prohibiting an appeal unless the person has applied to the local or marketing board for a hearing and the appeal has been rejected or the local or marketing board has failed to decide on the matter within sixty days of the application.

Subsection 11. The proposed subsection (5a) permits the Tribunal to define or limit the scope of any stay in the matter under appeal.

Subsection 13. Subsection 13 (7) of the Act permits the Tribunal seven days from receiving notice of appeal to set a hearing date. This would be changed to ten days. Subsection 13 (8) of the Act permits the Tribunal thirty days to complete a hearing. This would be changed to forty-five days.

Subsections 19 to 22. Subsection 15 (1) of the Act permits the Minister to review a Tribunal decision within thirty days of receiving it. That is changed to within thirty days of receiving reasons for the decision. The Minister is also given power to confirm or rescind a decision within the thirty-day period.

SECTION 2. Farm Products Marketing Act

Subsections 1 to 6. Changes are made to the definitions for clarity and to reflect that the Ontario Farm Products Marketing Commission has replaced The Farm Products Marketing Board.

Subsections 9, 10 and 17. Clauses 4 (1) (g) and (h) and subsection 7 (1) of the Act are amended to clarify that inspectors, besides being appointed to inspect regulated products,

are appointed to inspect growing plants or development in the producing of regulated products.

Subsection 11. Subsection 4 (5) of the Act is amended to provide that the *Corporations Act* and the *Corporations Information Act* do not apply to a local board. Subsection 4 (6) of the Act is expanded to provide liability protection to members and employees of local boards when they are acting in good faith under other legislation.

Subsections 12, 13, 14 and 15. Subsections 5 (1) and 6 (1) of the Act are amended to clarify that marketing plans may be established for the producing or marketing of a regulated product, or for both.

Subsection 20. Subsection 8 (1) of the Act sets out the regulation-making powers of the Ontario Farm Products Marketing Commission regarding regulated products. These powers can also be delegated to the local boards. The new paragraphs 1 to 5b provide that terms and conditions may attach to licences to produce, market or process regulated products and that penalties may be imposed. The delegation of licensing authority to the Director under the Act is also provided for.

Subsection 21. The regulation-making power in paragraph 10 of subsection 8 (1) is expanded to provide for performance bonds. Paragraph 11 is revoked as being redundant and replaced by a power to fix prompt payment discounts, delayed payment penalties and interest on licence fees and service charges owing.

Subsection 23. The regulation-making power in paragraph 27 is amended so that the methods of dispute resolution of negotiating agencies, conciliation boards and boards of arbitration may be provided for.

Subsection 27. The proposed subsections 8 (1a) and (1b) provide for the limits on penalties which may be imposed under paragraph 5a of subsection 8 (1).

Subsection 28. Clause 8 (2) (a) of the Act is amended to permit the Ontario Farm Products Marketing Commission to declare an agreement negotiated between producers and processors to come into force on any day named in the agreement. Previously, it could not come into force until the time of filing with the Commission.

Subsection 29. Subsection 8 (6) of the Act is amended to clarify that local boards may exercise their delegated powers by policies and decisions as well as by regulations, orders and directions.

Subsection 34. Section 10 of the Act is amended to clarify that the Commission may limit any powers delegated to a local board.

Subsection 35. The proposed section 11a would give the Minister the power to appoint a Director for the purposes of the Act.

Subsection 39. Section 14 of the Act is amended to provide that the Director under the Act, as well as the Commission or a local board, may apply to the Supreme Court for an injunction where the Act or the regulations are being contravened.

Subsection 40. The maximum penalties set out in section 16 of the Act are increased from the present \$500 for a first offence to \$2,000 per day and from the present \$5,000 for a subsequent offence to \$10,000 per day.

SECTION 3 Milk Act

Subsection 2. The definition of “plan” in paragraph 22 of section 1 is amended to clarify that marketing plans may be established for the producing or marketing of a regulated product, or for both.

Subsection 8. Subsection 7 (4) of the Act is amended to provide that the *Corporations Act* and the *Corporations Information Act* do not apply to marketing boards.

Subsection 9. Subsection 7 (6) of the Act is expanded to provide liability protection to members and employees of marketing boards when they are acting in good faith under other legislation.

Subsection 10. Paragraphs 2 to 5b of subsection 8 (1) provide that terms and conditions may attach to licences to produce, market or process regulated products and that penalties may be imposed. These changes parallel those made to subsection 8 (1) of the *Farm Products Marketing Act*.

Subsection 11. The regulation-making power in paragraph 10 of subsection 8 (1) is expanded to provide for performance bonds. A new paragraph 10a is added to provide for the power to fix prompt payment discounts, delayed payment penalties and interest on licence fees and service charges owing.

Subsection 14. The regulation-making power in paragraph 28 is amended so that the methods of dispute resolution of negotiating agencies, conciliation boards and boards of arbitration may be provided for.

Subsection 15. The proposed subsections 8 (1a) and (1b) provide for the limits on penalties which may be imposed under paragraph 5a of subsection 8 (1).

Subsection 16. Clause 8 (2) (a) of the Act is amended to permit the Ontario Farm Products Marketing Commission to declare an agreement negotiated between producers and processors to come into force on any day named in the agreement. Previously, it could not come into force until the time of filing with the Commission.

Subsection 17. Subsection 8 (7) of the Act is amended to clarify that marketing boards may exercise their delegated powers by policies and decisions as well as by regulations, orders and directions.

Subsection 18. Subsection 8 (9) of the Act is amended to clarify that the Commission may limit any powers delegated to a marketing board.

Subsection 19. The proposed paragraphs 3a and 3b are added to subsection 20 (1) to permit the Commission, with the approval of the Lieutenant Governor in Council, to make regulations providing to the Director, who licenses plants and distributors, the same licensing powers in respect of terms and conditions and penalties as are provided to the Commission under subsection 8 (1).

Subsection 20. Paragraph 4 of subsection 8 (1) is amended to provide for performance bonds. Paragraph 48 is amended to clarify that there is a regulation-making power in respect of substances added to or removed from milk and cream.

Subsection 21. The proposed subsection 20 (1a) provides for a limit on a penalty imposed by the Director under paragraph 3b of subsection 20 (1).

Subsection 22. The maximum penalties under section 22 of the Act are increased from the present \$50 for a first offence to \$2,000 per day and from the present \$500 for a subsequent offence to \$10,000 per day.

Bill 65

1987

An Act to amend certain Acts administered by the Ministry of Agriculture and Food

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Section 1 of the *Ministry of Agriculture and Food Act*, being chapter 270 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:

(c) “person” includes an unincorporated association.

(2) Clause 4b (1) (b) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 54, section 1, is repealed and the following substituted therefor:

(b) a field-man appointed under the *Milk Act* or a member, officer, clerk or employee of the Agricultural Licensing and Registration Review Board, the Farm Products Appeal Tribunal or the Ontario Farm Products Marketing Commission,

R.S.O. 1980,
c. 266

(3) Subsection 5 (2) of the said Act is amended by adding at the end thereof “and the conditions under which grants are repayable”.

(4) Section 5 of the said Act is amended by adding thereto the following subsections:

(4) A program may provide that a grant or payment shall not be assigned, charged, attached or given as security and that any transaction purporting to do so is void.

Grants not to
be given as
security

(5) A program may provide that it is to come into force before the date on which it is established.

Program may
be retroactive

(5) The said Act is amended by adding thereto the following sections:

Ontario Farm
Products
Marketing
Commission

9a.—(1) A commission to be known as the “Ontario Farm Products Marketing Commission” is hereby established as a body corporate and shall consist of not fewer than three persons appointed by the Lieutenant Governor in Council.

Chairman

(2) The Lieutenant Governor in Council shall appoint one of the members as chairman and one or more of the members as vice-chairman.

Quorum

(3) Three members of the Commission, of whom one shall be the chairman or a vice-chairman, constitute a quorum and are sufficient for the exercise of all jurisdiction and powers of the Commission.

Division of
the
Commission

(4) The chairman, or in the case of the absence or inability of the chairman to act, a vice-chairman, may assign members of the Commission to divisions thereof and may change the assignment at any time.

Quorum
necessary in
division

(5) The Commission may sit in two or more divisions simultaneously so long as a quorum of the Commission is present in each division.

Remuner-
ation

(6) Members of the Commission who are not employed in the public service of Ontario shall receive such remuneration and expenses as the Lieutenant Governor in Council determines.

Non-
application
of
R.S.O. 1980,
cc. 95, 96

(7) The *Corporations Act* and the *Corporations Information Act* do not apply to the Commission.

Appointment
of officers
and
employees
R.S.O. 1980,
c. 418

(8) A secretary to the Commission and such other officers and employees as may be required may be appointed or transferred under the *Public Service Act*.

Where
secretary
absent

(9) Where the secretary is absent or the position is vacant, the Commission may appoint any person to act in that capacity.

Appointment
of specialists,
etc.

(10) The Commission may appoint conciliators or arbitrators or persons having technical or special knowledge to assist the Commission in any capacity.

Dissolution
of Milk
Commission
and Farm
Products
Marketing
Board
R.S.O. 1980

9b. The Milk Commission of Ontario, constituted as a body corporate under the *Milk Act* and The Farm Products

Marketing Board, constituted as a body corporate under the *Farm Products Marketing Act*, are hereby dissolved and all the real and personal property, including all the rights and privileges, of The Milk Commission of Ontario and of The Farm Products Marketing Board are vested in the Ontario Farm Products Marketing Commission and all obligations, liabilities and responsibilities of The Milk Commission of Ontario and of The Farm Products Marketing Board become obligations, liabilities and responsibilities of the Commission.

9c. All acts, appointments, directions, decisions, orders, delegations, regulations, awards, agreements, rules, resolutions, determinations, minutes and licences heretofore done, made, issued or entered into by The Milk Commission of Ontario and The Farm Products Marketing Board respectively shall be deemed to have been done, made, issued or entered into by the Ontario Farm Products Marketing Commission and shall continue good and valid and remain in full force and effect until amended, cancelled, withdrawn, suspended, revoked or annulled and others done, made, issued or entered into in their stead.

Previous acts, appointments, directions, orders, etc., continue valid

9d. A reference in any Act, regulation, by-law, contract, agreement, licence, order, decision, award or other document or thing to The Milk Commission of Ontario or The Farm Products Marketing Board shall be deemed to be a reference to the Ontario Farm Products Marketing Commission.

References to Milk Commission and Farm Products Marketing Board

(6) Section 11 of the said Act is amended by adding thereto the following subsection:

(11) Documents of the Tribunal may be signed by the chairman or any person designated in writing by the chairman.

Documents

(7) Clauses 12 (a) and (b) of the said Act are repealed and the following substituted therefor:

(a) "Commission" means the Ontario Farm Products Marketing Commission.

(8) Clause 12 (c) of the said Act is amended by adding at the end thereof "or the *Farm Products Marketing Act*".

(9) Subsections 13 (1), (2) and (4) of the said Act are repealed and the following substituted therefor:

(1) Subject to subsection (4), if a person is aggrieved by an order, direction, policy or decision of the Commission or Director, made under the *Farm Products Marketing Act* or the *Milk Act*, that person may appeal to the Tribunal by filing

Appeal to Tribunal

R.S.O. 1980, cc. 158, 266

with the Tribunal and sending to the Commission or Director written notice of the appeal.

Idem

(2) Subject to subsections (4) and (5), if a person is aggrieved by an order, direction, policy, decision or regulation made under the *Farm Products Marketing Act* by a local board or under the *Milk Act* by a marketing board, that person may appeal to the Tribunal by filing with the Tribunal and sending to the local board or marketing board written notice of the appeal.

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Tribunal may
refuse to
hear appeal

(4) The Tribunal may refuse to hear the appeal or, after a hearing has commenced, refuse to continue the hearing or make a decision if it relates to any order, direction, policy, decision or regulation of which the appellant has had knowledge for more than one year before the notice is filed under subsection (1) or (2) or, if in its opinion,

- (a) the subject-matter of the appeal is trivial;
- (b) the appeal is frivolous or vexatious or is not made in good faith; or
- (c) the appellant has not a sufficient interest in the subject-matter of the appeal.

(10) Subsection 13 (5) of the said Act is repealed and the following substituted therefor:

Conditions
for appeal

(5) No appeal may be taken from an order, direction, policy, decision or regulation of a local board or a marketing board unless,

- (a) the appellant has first applied to the local board or marketing board for a hearing and the local board or marketing board has refused to grant, in whole or in part, the relief requested by the appellant or has not decided the matter within sixty days of the application for a hearing; or
- (b) the appellant and the local board or marketing board have waived their respective rights under clause (a) in writing.

(11) Section 13 of the said Act is amended by adding thereto the following subsection:

Effect of
appeal
R.S.O. 1980,
c. 484

(5a) Where, by virtue of subsection 25 (1) of the *Statutory*

Powers Procedure Act, an appeal under subsection (1) or (2) operates as a stay in the matter, the Tribunal may limit or define the scope of the stay.

(12) Subsection 13 (6) of the said Act is amended by striking out “the Board” in the second line.

(13) Subsections 13 (7), (8) and (9) of the said Act are repealed and the following substituted therefor:

(7) In an appeal under subsection (1) or (2), the Tribunal shall, within ten days after the notice referred to in subsection (1) or (2) is received, send notice to the person making the appeal and upon any body entitled to receive notice under subsection (6) or the Director, as the case may be, of the date, time and place at which the appeal will be heard.

Notice of
hearing

(8) The Tribunal shall complete the hearing within forty-five days after the date set for the hearing, but the Tribunal may, at the request of any party to the proceedings, adjourn the hearing for such periods of time as the Tribunal considers just.

Hearing of
appeal

(9) At any hearing under this section, any person entitled to receive notice under subsection (7) and any person having a sufficient interest in the subject-matter of the appeal may be a party to the appeal and the *Statutory Powers Procedure Act* applies.

Parties

R.S.O. 1980,
c. 484

(14) Subsection 13 (10) of the said Act is amended by striking out “the Board” in the second line and in the seventh line.

(15) Subsection 13 (11) of the said Act is repealed and the following substituted therefor:

(11) The Tribunal shall, within twenty days after the hearing is completed, send notice of its decision and reasons, if any, to all parties to the appeal and to the Minister.

Notice of
decision

(16) Subsections 13 (13) and (14) of the said Act are repealed and the following substituted therefor:

(13) Notice under this section may be given by mail to the usual business address of the person or, in the case of the person making an appeal, to the address shown in the notice of appeal.

Notice by
mail

(14) After the Tribunal has decided an appeal under this section, the Tribunal may, on its own motion or upon the request of any person who is aggrieved by the decision,

Tribunal may
reopen
hearing

reopen the hearing and make a new decision, and the procedure for an appeal under this section applies to the hearing.

(17) Subsection 14 (1) of the said Act is repealed and the following substituted therefor:

Request for
reconsideration

(1) Where a person is aggrieved by an order, direction, policy or decision of the Commission, a local board, a marketing board or the Director, that person may, by written application therefor, request a reconsideration of the order, direction, policy or decision.

(18) Subsection 14 (4) of the said Act is repealed and the following substituted therefor:

Idem

(4) Where a person is affected by any regulation made by the Commission, that person may request the Commission to reconsider the regulation by serving upon the Commission written notice of the request.

(19) Subsection 15 (1) of the said Act is repealed and the following substituted therefor:

Powers of
Minister

(1) Within thirty days after receipt by the Minister of a decision of the Tribunal under this Act and the reasons therefor, if any, or within such longer period as may be determined by the Minister within such thirty-day period, the Minister may,

- (a) confirm, vary or rescind the whole or any part of the decision;
- (b) substitute for the decision of the Tribunal such decision as the Minister considers appropriate; or
- (c) by notice to the Tribunal require the Tribunal to hold a new hearing of the whole or any part of the matter appealed to the Tribunal and reconsider its decision.

(20) Subsection 15 (2) of the said Act is amended by inserting after “varied” in the third line “or rescinded”.

(21) Subsection 15 (3) of the said Act is amended by striking out “varied” in the first line and inserting in lieu thereof “confirmed, varied or rescinded”.

(22) Subsection 15 (4) of the said Act is amended by inserting after “variation” in the second line “rescission”.

2.—(1) Clause 1 (a) of the *Farm Products Marketing Act*, being chapter 158 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (a) “Commission” means the Ontario Farm Products Marketing Commission under the *Ministry of Agriculture and Food Act*. R.S.O. 1980,
c. 270

(2) The said Act is amended by striking out “Board” wherever it occurs as a reference to “The Farm Products Marketing Board” and inserting in lieu thereof in each instance “Commission”.

(3) Section 1 of the said Act is amended by adding thereto the following clause:

- (aa) “Director” means the Director appointed under this Act.

(4) Clause 1 (b) of the said Act is amended by striking out “such articles” in the fifth line and inserting in lieu thereof “articles”.

(5) Clause 1 (c) of the said Act is repealed and the following substituted therefor:

- (c) “licence” means a licence provided for under this Act.

(6) Clause 1 (g) of the said Act is amended by striking out “marketing” in the second line and inserting in lieu thereof “producing or marketing or both”.

(7) Section 2 of the said Act is repealed and the following substituted therefor:

2. The purpose of this Act is to provide for the control and regulation in any or all aspects of the producing and marketing within Ontario of farm products including the prohibition of such producing or marketing in whole or in part. Purpose of
Act

(8) Section 3 of the said Act is repealed.

(9) Clause 4 (1) (g) of the said Act is amended by,

- (a) striking out “and” at the end of subclause (i);
- (b) adding “and” at the end of subclause (ii); and
- (c) adding thereto the following subclause:

- (iii) inspect any growing plants or development in the producing of a regulated product.

(10) Clause 4 (1) (h) of the said Act is repealed.

(11) Subsections 4 (5) and (6) of the said Act are repealed and the following substituted therefor:

Local board
a body
corporate
R.S.O. 1980,
cc. 95, 96

(5) Every local board is a body corporate to which the *Corporations Act* and the *Corporations Information Act* do not apply.

Protection
from
personal
liability

(6) No member of a local board and no officer, clerk or employee of a local board is personally liable for anything done or omitted to be done by the board or by the member, officer, clerk or employee in good faith in the exercise of any power or the performance of any duty under or purporting to be under this Act or any other Act of Ontario or Canada.

(12) Subsection 5 (1) of the said Act is amended by inserting after “the” in the fourth line “producing or”.

(13) Clause 6 (1) (a) of the said Act is amended by inserting after “the” in the second line “producing or”.

(14) Clause 6 (1) (b) of the said Act is repealed.

(15) Clause 6 (1) (c) of the said Act is amended by striking out “marketing” in the fourth line and inserting in lieu thereof “producing or marketing”.

(16) Clause 6 (1) (h) of the said Act is amended by striking out “notwithstanding any other Act” in the first line.

(17) Subsection 7 (1) of the said Act is amended by,

- (a) striking out “or (h)” in the third line; and
- (b) inserting after “product” in the seventh line “and growing plants or development in the producing of the regulated product”.

(18) Subsection 7 (2) of the said Act is amended by striking out “or (h)” in the third line.

(19) Subsection 7 (3) of the said Act is amended by striking out “or (h)” in the second and third lines.

(20) Paragraphs 1, 2, 3, 4 and 5 of subsection 8 (1) of the said Act are repealed and the following substituted therefor:

1. providing for the licensing of any or all persons before commencing or continuing to engage in the producing, marketing or processing of a regulated product and delegating to the Director the authority to grant, refuse to grant, renew, suspend and revoke licences;
2. prescribing or providing for classes of licences and the imposition of terms and conditions on any class of licence;
3. providing that the Commission, Director or local board may impose such terms and conditions upon a licence as the Commission, Director or local board considers proper;
4. prohibiting persons from engaging in the producing, marketing or processing of any regulated product except under the authority of a licence and except in compliance with the terms and conditions of the licence;
5. providing for the refusal to grant or renew or the suspension or revocation of a licence,
 - i. where the applicant or licensee is not qualified by experience, financial responsibility or equipment to properly engage in the business for which the application was made or the licence granted, or
 - ii. where the applicant or licensee has failed to comply with or has contravened any provision of this Act, the regulations, any plan or any order or direction of the Commission, Director or local board or of a marketing agency of Canada;
- 5a. providing for the imposition, amount, disposition and use of penalties where, after a hearing, the Commission, Director or local board is of the opinion that the applicant or licensee has failed to comply with or has contravened any term or condition of a licence or any provision of this Act, the regulations, any plan or any order or direction of the Commission, Director or local board;
- 5b. providing for the fixing of licence fees and the payment thereof by any or all persons producing, marketing or processing a regulated product and the

collecting of the licence fees and their recovery by suit in a court of competent jurisdiction.

(21) Paragraphs 10, 11 and 16 of the said subsection 8 (1) are repealed and the following substituted therefor:

10. requiring and providing for the furnishing of security or proof of financial responsibility or of a performance bond by a person or class of persons engaged in the producing, marketing or processing of a regulated product and providing for the administration, forfeiture and disposition of any moneys or securities so furnished and the proceeds therefrom;
11. authorizing the fixing of prompt payment discounts, delayed payment penalties and interest on licence fees and service charges owing by any person engaged in the producing, marketing or processing of a regulated product;
-
16. providing for the control and regulation of the producing or marketing of any regulated product, including the times and places at which the regulated product may be produced or marketed.

(22) Paragraph 19 of the said subsection 8 (1) is amended by striking out “notwithstanding any other Act” in the first line.

(23) Paragraphs 27 and 33 of the said subsection 8 (1) are repealed and the following substituted therefor:

27. determining the constitution of negotiating agencies, conciliation boards and boards of arbitration, providing for the appointment of arbitrators and conciliators and regulating the practice, procedure and methods of dispute resolution of such agencies, boards and arbitrators;
-
33. designating as farm products any natural products of agriculture.

(24) Paragraph 34 of the said subsection 8 (1) is amended by inserting after “the” in the third line “producing or”.

(25) Paragraph 37 of the said subsection 8 (1) is amended by striking out “established for the control and regulation of the marketing of the regulated product” in the fourth, fifth and sixth lines.

(26) Paragraph 40 of the said subsection 8 (1) is amended by inserting after “agency” in the sixth line “of Canada”.

(27) Section 8 of the said Act is amended by adding thereto the following subsections:

(1a) A penalty imposed on a producer under paragraph 5a of subsection (1) shall not exceed 10 per cent of the price payable to the producer for the regulated product marketed during the immediately preceding twelve month period by the producer and a 20 per cent reduction in the amount of regulated product which may be marketed during any twelve month period by the producer. Limitations
on penalties

(1b) A penalty imposed on a person other than a producer under paragraph 5a of subsection (1) shall not exceed 10 per cent of the price payable to the producers for the regulated product marketed or processed during the immediately preceding twelve month period by the person. Idem

(28) Clause 8 (2) (a) of the said Act is amended by striking out “later” in the eighth line and inserting in lieu thereof “other”.

(29) Subsection 8 (6) of the said Act is amended by striking out “or orders or” in the third line and inserting in lieu thereof “orders, policies and decisions or”.

(30) Subsection 9 (1) of the said Act is amended by inserting before “marketing” in the fourth line “producing or”.

(31) Subclause 9 (1) (a) (i) of the said Act is repealed and the following substituted therefor:

- (i) to direct and control, by order or direction either as principal or agent, the producing or marketing of the regulated product, including the times and places at which the regulated product may be produced or marketed.

(32) Clause 9 (1) (b) of the said Act is amended by,

- (a) striking out “the Commission” in the second and third lines and inserting in lieu thereof “it”; and

- (b) striking out “the Commission” in the third line of subclause (ii) and inserting in lieu thereof “The Ontario Apple Marketing Commission”.

(33) Clause 9 (4) (f) of the said Act is amended by inserting before “marketing” in the first line “producing or”.

(34) Section 10 of the said Act, exclusive of the clauses, is repealed and the following substituted therefor:

Limitation on
powers of
local board

10. Where the Commission delegates to a local board powers or authorizes a local board to exercise powers under this Act or vests in a local board powers under this Act, the Commission may at any time,

.

(35) The said Act is amended by adding thereto the following section:

Director

11a.—(1) The Minister may appoint a Director for the purposes of this Act.

Duties of
director

(2) The Director shall exercise the powers and perform the duties conferred or imposed under this or any other Act.

(36) Subsection 13 (1) of the said Act is amended by,

- (a) inserting before “marketing” in the seventh line “producing or”; and
- (b) inserting before “marketing” in the third line of clause (b) “producing or”.

(37) Subsection 13 (2) of the said Act is amended by inserting before “marketing” in the seventh line “producing or”.

(38) Subsection 13 (3) of the said Act is amended by,

- (a) inserting after “the” in the eighth line of clause (a) “producing or”; and
- (b) inserting after “the” in the second line of clause (b) “producing or”.

(39) Section 14 of the said Act is amended by striking out “Board or” in the eighth line and inserting in lieu thereof “Commission, Director or”.

(40) Section 16 of the said Act is repealed and the following substituted therefor:

16. Every person who contravenes this Act or the regulations or any plan or any order or direction of the Commission, the Director or any local board, or any agreement or award or renegotiated agreement or award declared to be in force by the Commission is guilty of an offence and on conviction is liable for a first offence to a fine of not more than \$2,000 for each day that the offence continues and for a subsequent offence to a fine of not more than \$10,000 for each day that the offence continues. Offences

(41) Clause 17 (2) (b) of the said Act is amended by inserting before “marketing” in the second line “producing or”.

(42) Clause 21 (2) (a) of the said Act is repealed.

(43) Subsection 21 (5) of the said Act is amended by inserting after “regulations” in the third line “policies”.

(44) Subsection 21 (7) of the said Act is repealed.

(45) Clause 22 (2) (a) of the said Act is repealed.

(46) Subsection 22 (5) of the said Act is amended by inserting after “regulations” in the third line “policies”.

3.—(1) Paragraph 4 of section 1 of the *Milk Act*, being chapter 266 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

4. “Commission” means the Ontario Farm Products Marketing Commission under the *Ministry of Agriculture and Food Act*. R.S.O. 1980,
c. 270

(2) Paragraph 22 of the said section 1 is amended by striking out “marketing” in the third line and inserting in lieu thereof “producing or marketing or both”.

(3) Clause 2 (b) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 18, section 1, is amended by striking out “marketing” in the second line and in the fourth line and inserting in lieu thereof in each instance “producing or marketing”.

(4) The heading immediately preceding section 3 of the said Act and section 3, as amended by the Statutes of Ontario, 1984, chapter 25, section 2, are repealed.

(5) Subsection 6 (1) of the said Act is amended by inserting before "marketing" in the fourth line "producing or".

(6) Clause 7 (1) (a) of the said Act is amended by inserting after "the" in the second line "producing or".

(7) Clause 7 (1) (f) of the said Act is amended by striking out "notwithstanding any other Act" in the first line.

(8) Subsection 7 (4) of the said Act is repealed and the following substituted therefor:

Marketing
board is
body
corporate
R.S.O. 1980,
cc. 95, 96

(4) Every marketing board is a body corporate to which the *Corporations Act* and the *Corporations Information Act* do not apply.

(9) Subsection 7 (6) of the said Act is repealed and the following substituted therefor:

No personal
liability

(6) No member of a marketing board and no officer, clerk or employee of a marketing board is personally liable for anything done or omitted to be done by the board or by the member, officer, clerk or employee in good faith in the exercise of any power or the performance of any duty under or purporting to be under this Act or any other Act of Ontario or Canada.

(10) Paragraphs 2, 3, 4 and 5 of subsection 8 (1) of the said Act are repealed and the following substituted therefor:

2. prescribing or providing for classes of licences and the imposition of terms and conditions on any class of licence;
3. providing that the Commission or marketing board may impose such terms and conditions upon a licence as the Commission or marketing board considers proper;
4. prohibiting persons from engaging in the producing, marketing or processing of any regulated product except under the authority of a licence and except in compliance with the terms and conditions of the licence;
5. providing for the refusal to grant or renew or the suspension or revocation of a licence,
 - i. where the applicant or licensee is not qualified by experience, financial responsibility or

equipment to properly engage in the business for which the application was made or the licence granted, or

- ii. where the applicant or licensee has failed to comply with or has contravened any provision of this Act, the regulations, any plan or any order or direction of the Commission or marketing board or of a marketing agency of Canada;
- 5a. providing for the imposition, amount, disposition and use of penalties where, after a hearing, the Commission or marketing board is of the opinion that the applicant or licensee has failed to comply with or has contravened any term or condition of a licence or any provision of this Act, the regulations, any plan or any order or direction of the Commission or marketing board;
- 5b. providing for the fixing of licence fees and the payment thereof by any or all persons producing, marketing or processing a regulated product and the collecting of the licence fees and their recovery by suit in a court of competent jurisdiction.

(11) Paragraph 10 of the said subsection 8 (1) is repealed and the following substituted therefor:

- 10. requiring and providing for the furnishing of security or proof of financial responsibility or of a performance bond by a person or class of persons engaged in the producing, marketing or processing of a regulated product and providing for the administration, forfeiture and disposition of any moneys or securities so furnished and the proceeds therefrom;
- 10a. authorizing the fixing of prompt payment discounts, delayed payment penalties and interest on licence fees and service charges owing by any person engaged in the producing, marketing or processing of a regulated product.

(12) Paragraph 13 of the said subsection 8 (1) is repealed and the following substituted therefor:

- 13. providing for the control and regulation of the producing or marketing of any regulated product,

including the times and places at which the regulated product may be produced or marketed.

(13) Paragraph 21 of the said subsection 8 (1) is amended by striking out “notwithstanding any other Act” in the first line.

(14) Paragraph 28 of the said subsection 8 (1) is repealed and the following substituted therefor:

28. determining the constitution of negotiating agencies, conciliation boards and boards of arbitration, providing for the appointment of arbitrators and conciliators and regulating the practice, procedure and methods of dispute resolution of such agencies, boards and arbitrators.

(15) Section 8 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 18, section 2, is further amended by adding thereto the following subsections:

Limitation on penalties

(1a) A penalty imposed on a producer under paragraph 5a of subsection (1) shall not exceed 10 per cent of the price payable to the producer for the regulated product marketed during the immediately preceding twelve month period by the producer and a 20 per cent reduction in the amount of regulated product which may be marketed during any twelve month period by the producer.

Idem

(1b) A penalty imposed on a person other than a producer under paragraph 5a of subsection (1) shall not exceed 10 per cent of the price payable to the producers for the regulated product marketed or processed during the immediately preceding twelve month period by the person.

(16) Clause 8 (2) (a) of the said Act is amended by striking out “later” in the eighth line and inserting in lieu thereof “other”.

(17) Subsection 8 (7) of the said Act is amended by striking out “or orders” in the fourth line and inserting in lieu thereof “orders, policies and decisions”.

(18) Subsection 8 (9) of the said Act, exclusive of the clauses, is repealed and the following substituted therefor:

Limitations on powers, etc., of marketing boards

(9) Where the Commission delegates to a marketing board powers or authorizes a marketing board to exercise powers under this Act, the Commission may at any time,

(19) Subsection 20 (1) of the said Act is amended by adding thereto the following paragraphs:

- 3a. providing that the Director may impose such terms and conditions upon a licence under paragraphs 1 and 2 as the Director considers proper;
- 3b. providing for the imposition, amount, disposition and use of penalties where, after a hearing, the Director is of the opinion that the applicant or licensee has failed to comply with or has contravened any term or condition of a licence under paragraphs 1 and 2 or any provision of this Act, the regulations, any plan or any order or direction of the Commission.

(20) Paragraphs 4 and 48 of the said subsection 20 (1) are repealed and the following substituted therefor:

- 4. requiring and providing for the furnishing of security or proof of financial responsibility or of a performance bond by a distributor or class of distributors or any person engaged in the operation of a plant or any class of plant;
-
- 48. regulating and prohibiting the addition to or removal from milk, cream or fluid milk products of any substance, and regulating and prohibiting the marketing of milk, cream or fluid milk products to which the substance has been added or from which the substance has been removed.

(21) Section 20 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 56, section 2 and 1984, chapter 25, section 4, is further amended by adding thereto the following subsection:

(1a) A penalty imposed under paragraph 3b of subsection (1) shall not exceed 10 per cent of the price payable to the producers for the regulated product marketed or processed during the immediately preceding twelve month period by the distributor or person engaged in the operation of a plant.

Limitation on penalties

(22) Section 22 of the said Act is repealed and the following substituted therefor:

22. Every person who contravenes this Act or the regulations, or any plan or any order or direction of the Commis-

Offences

sion, the Director or any marketing board, or any agreement or award or renegotiated agreement or award declared to be in force by the Commission, or any by-law under this Act, is guilty of an offence and on conviction is liable for a first offence to a fine of not more than \$2,000 for each day that the offence continues and for a subsequent offence to a fine of not more than \$10,000 for each day that the offence continues.

(23) Clause 24 (2) (b) of the said Act is amended by inserting before “marketing” in the second line “producing or”.

Commence-
ment

4. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

5. The short title of this Act is the *Ministry of Agriculture and Food Statute Law Amendment Act, 1987*.

Bill 65

(Chapter 13
Statutes of Ontario, 1988)

An Act to amend certain Acts administered by the Ministry of Agriculture and Food

The Hon. J. Riddell
Minister of Agriculture and Food



<i>1st Reading</i>	December 9th, 1987
<i>2nd Reading</i>	January 7th, 1988
<i>3rd Reading</i>	January 7th, 1988
<i>Royal Assent</i>	January 7th, 1988

Bill 65

1987

**An Act to amend certain Acts administered by the
Ministry of Agriculture and Food**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Section 1 of the *Ministry of Agriculture and Food Act*, being chapter 270 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:

(c) “person” includes an unincorporated association.

(2) Clause 4b (1) (b) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 54, section 1, is repealed and the following substituted therefor:

(b) a field-man appointed under the *Milk Act* or a member, officer, clerk or employee of the Agricultural Licensing and Registration Review Board, the Farm Products Appeal Tribunal or the Ontario Farm Products Marketing Commission,

R.S.O. 1980,
c. 266

(3) Subsection 5 (2) of the said Act is amended by adding at the end thereof “and the conditions under which grants are repayable”.

(4) Section 5 of the said Act is amended by adding thereto the following subsections:

(4) A program may provide that a grant or payment shall not be assigned, charged, attached or given as security and that any transaction purporting to do so is void.

Grants not to
be given as
security

(5) A program may provide that it is to come into force before the date on which it is established.

Program may
be retroactive

(5) The said Act is amended by adding thereto the following sections:

Ontario Farm
Products
Marketing
Commission

9a.—(1) A commission to be known as the “Ontario Farm Products Marketing Commission” is hereby established as a body corporate and shall consist of not fewer than three persons appointed by the Lieutenant Governor in Council.

Chairman

(2) The Lieutenant Governor in Council shall appoint one of the members as chairman and one or more of the members as vice-chairman.

Quorum

(3) Three members of the Commission, of whom one shall be the chairman or a vice-chairman, constitute a quorum and are sufficient for the exercise of all jurisdiction and powers of the Commission.

Division of
the
Commission

(4) The chairman, or in the case of the absence or inability of the chairman to act, a vice-chairman, may assign members of the Commission to divisions thereof and may change the assignment at any time.

Quorum
necessary in
division

(5) The Commission may sit in two or more divisions simultaneously so long as a quorum of the Commission is present in each division.

Remuner-
ation

(6) Members of the Commission who are not employed in the public service of Ontario shall receive such remuneration and expenses as the Lieutenant Governor in Council determines.

Non-
application
of
R.S.O. 1980,
cc. 95, 96

(7) The *Corporations Act* and the *Corporations Information Act* do not apply to the Commission.

Appointment
of officers
and
employees
R.S.O. 1980,
c. 418

(8) A secretary to the Commission and such other officers and employees as may be required may be appointed or transferred under the *Public Service Act*.

Where
secretary
absent

(9) Where the secretary is absent or the position is vacant, the Commission may appoint any person to act in that capacity.

Appointment
of specialists,
etc.

(10) The Commission may appoint conciliators or arbitrators or persons having technical or special knowledge to assist the Commission in any capacity.

Dissolution
of Milk
Commission
and Farm
Products
Marketing
Board
R.S.O. 1980,
cc. 266, 158

9b. The Milk Commission of Ontario, constituted as a body corporate under the *Milk Act* and The Farm Products

Marketing Board, constituted as a body corporate under the *Farm Products Marketing Act*, are hereby dissolved and all the real and personal property, including all the rights and privileges, of The Milk Commission of Ontario and of The Farm Products Marketing Board are vested in the Ontario Farm Products Marketing Commission and all obligations, liabilities and responsibilities of The Milk Commission of Ontario and of The Farm Products Marketing Board become obligations, liabilities and responsibilities of the Commission.

9c. All acts, appointments, directions, decisions, orders, delegations, regulations, awards, agreements, rules, resolutions, determinations, minutes and licences heretofore done, made, issued or entered into by The Milk Commission of Ontario and The Farm Products Marketing Board respectively shall be deemed to have been done, made, issued or entered into by the Ontario Farm Products Marketing Commission and shall continue good and valid and remain in full force and effect until amended, cancelled, withdrawn, suspended, revoked or annulled and others done, made, issued or entered into in their stead.

Previous acts, appointments, directions, orders, etc., continue valid

9d. A reference in any Act, regulation, by-law, contract, agreement, licence, order, decision, award or other document or thing to The Milk Commission of Ontario or The Farm Products Marketing Board shall be deemed to be a reference to the Ontario Farm Products Marketing Commission.

References to Milk Commission and Farm Products Marketing Board

(6) Section 11 of the said Act is amended by adding thereto the following subsection:

(11) Documents of the Tribunal may be signed by the chairman or any person designated in writing by the chairman.

Documents

(7) Clauses 12 (a) and (b) of the said Act are repealed and the following substituted therefor:

(a) "Commission" means the Ontario Farm Products Marketing Commission.

(8) Clause 12 (c) of the said Act is amended by adding at the end thereof "or the *Farm Products Marketing Act*".

(9) Subsections 13 (1), (2) and (4) of the said Act are repealed and the following substituted therefor:

(1) Subject to subsection (4), if a person is aggrieved by an order, direction, policy or decision of the Commission or Director, made under the *Farm Products Marketing Act* or the *Milk Act*, that person may appeal to the Tribunal by filing

Appeal to Tribunal

R.S.O. 1980, cc. 158, 266

with the Tribunal and sending to the Commission or Director written notice of the appeal.

Idem

(2) Subject to subsections (4) and (5), if a person is aggrieved by an order, direction, policy, decision or regulation made under the *Farm Products Marketing Act* by a local board or under the *Milk Act* by a marketing board, that person may appeal to the Tribunal by filing with the Tribunal and sending to the local board or marketing board written notice of the appeal.

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Tribunal may
refuse to
hear appeal

(4) The Tribunal may refuse to hear the appeal or, after a hearing has commenced, refuse to continue the hearing or make a decision if it relates to any order, direction, policy, decision or regulation of which the appellant has had knowledge for more than one year before the notice is filed under subsection (1) or (2) or, if in its opinion,

- (a) the subject-matter of the appeal is trivial;
- (b) the appeal is frivolous or vexatious or is not made in good faith; or
- (c) the appellant has not a sufficient interest in the subject-matter of the appeal.

(10) Subsection 13 (5) of the said Act is repealed and the following substituted therefor:

Conditions
for appeal

(5) No appeal may be taken from an order, direction, policy, decision or regulation of a local board or a marketing board unless,

- (a) the appellant has first applied to the local board or marketing board for a hearing and the local board or marketing board has refused to grant, in whole or in part, the relief requested by the appellant or has not decided the matter within sixty days of the application for a hearing; or
- (b) the appellant and the local board or marketing board have waived their respective rights under clause (a) in writing.

(11) Section 13 of the said Act is amended by adding thereto the following subsection:

Effect of
appeal
R.S.O. 1980,
c. 484

(5a) Where, by virtue of subsection 25 (1) of the *Statutory*

Powers Procedure Act, an appeal under subsection (1) or (2) operates as a stay in the matter, the Tribunal may limit or define the scope of the stay.

(12) Subsection 13 (6) of the said Act is amended by striking out “the Board” in the second line.

(13) Subsections 13 (7), (8) and (9) of the said Act are repealed and the following substituted therefor:

(7) In an appeal under subsection (1) or (2), the Tribunal shall, within ten days after the notice referred to in subsection (1) or (2) is received, send notice to the person making the appeal and upon any body entitled to receive notice under subsection (6) or the Director, as the case may be, of the date, time and place at which the appeal will be heard.

Notice of
hearing

(8) The Tribunal shall complete the hearing within forty-five days after the date set for the hearing, but the Tribunal may, at the request of any party to the proceedings, adjourn the hearing for such periods of time as the Tribunal considers just.

Hearing of
appeal

(9) At any hearing under this section, any person entitled to receive notice under subsection (7) and any person having a sufficient interest in the subject-matter of the appeal may be a party to the appeal and the *Statutory Powers Procedure Act* applies.

Parties

R.S.O. 1980,
c. 484

(14) Subsection 13 (10) of the said Act is amended by striking out “the Board” in the second line and in the seventh line.

(15) Subsection 13 (11) of the said Act is repealed and the following substituted therefor:

(11) The Tribunal shall, within twenty days after the hearing is completed, send notice of its decision and reasons, if any, to all parties to the appeal and to the Minister.

Notice of
decision

(16) Subsections 13 (13) and (14) of the said Act are repealed and the following substituted therefor:

(13) Notice under this section may be given by mail to the usual business address of the person or, in the case of the person making an appeal, to the address shown in the notice of appeal.

Notice by
mail

(14) After the Tribunal has decided an appeal under this section, the Tribunal may, on its own motion or upon the request of any person who is aggrieved by the decision,

Tribunal may
reopen
hearing

reopen the hearing and make a new decision, and the procedure for an appeal under this section applies to the hearing.

(17) Subsection 14 (1) of the said Act is repealed and the following substituted therefor:

Request for
reconsideration

(1) Where a person is aggrieved by an order, direction, policy or decision of the Commission, a local board, a marketing board or the Director, that person may, by written application therefor, request a reconsideration of the order, direction, policy or decision.

(18) Subsection 14 (4) of the said Act is repealed and the following substituted therefor:

Idem

(4) Where a person is affected by any regulation made by the Commission, that person may request the Commission to reconsider the regulation by serving upon the Commission written notice of the request.

(19) Subsection 15 (1) of the said Act is repealed and the following substituted therefor:

Powers of
Minister

(1) Within thirty days after receipt by the Minister of a decision of the Tribunal under this Act and the reasons therefor, if any, or within such longer period as may be determined by the Minister within such thirty-day period, the Minister may,

- (a) confirm, vary or rescind the whole or any part of the decision;
- (b) substitute for the decision of the Tribunal such decision as the Minister considers appropriate; or
- (c) by notice to the Tribunal require the Tribunal to hold a new hearing of the whole or any part of the matter appealed to the Tribunal and reconsider its decision.

(20) Subsection 15 (2) of the said Act is amended by inserting after "varied" in the third line "or rescinded".

(21) Subsection 15 (3) of the said Act is amended by striking out "varied" in the first line and inserting in lieu thereof "confirmed, varied or rescinded".

(22) Subsection 15 (4) of the said Act is amended by inserting after "variation" in the second line "rescission".

2.—(1) Clause 1 (a) of the *Farm Products Marketing Act*, being chapter 158 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (a) “Commission” means the Ontario Farm Products Marketing Commission under the *Ministry of Agriculture and Food Act*. R.S.O. 1980,
c. 270

(2) The said Act is amended by striking out “Board” wherever it occurs as a reference to “The Farm Products Marketing Board” and inserting in lieu thereof in each instance “Commission”.

(3) Section 1 of the said Act is amended by adding thereto the following clause:

- (aa) “Director” means the Director appointed under this Act.

(4) Clause 1 (b) of the said Act is amended by striking out “such articles” in the fifth line and inserting in lieu thereof “articles”.

(5) Clause 1 (c) of the said Act is repealed and the following substituted therefor:

- (c) “licence” means a licence provided for under this Act.

(6) Clause 1 (g) of the said Act is amended by striking out “marketing” in the second line and inserting in lieu thereof “producing or marketing or both”.

(7) Section 2 of the said Act is repealed and the following substituted therefor:

2. The purpose of this Act is to provide for the control and regulation in any or all aspects of the producing and marketing within Ontario of farm products including the prohibition of such producing or marketing in whole or in part. Purpose of
Act

(8) Section 3 of the said Act is repealed.

(9) Clause 4 (1) (g) of the said Act is amended by,

- (a) striking out “and” at the end of subclause (i);
- (b) adding “and” at the end of subclause (ii); and
- (c) adding thereto the following subclause:

- (iii) inspect any growing plants or development in the producing of a regulated product.

(10) Clause 4 (1) (h) of the said Act is repealed.

(11) Subsections 4 (5) and (6) of the said Act are repealed and the following substituted therefor:

Local board
a body
corporate
R.S.O. 1980,
cc. 95, 96

(5) Every local board is a body corporate to which the *Corporations Act* and the *Corporations Information Act* do not apply.

Protection
from
personal
liability

(6) No member of a local board and no officer, clerk or employee of a local board is personally liable for anything done or omitted to be done by the board or by the member, officer, clerk or employee in good faith in the exercise of any power or the performance of any duty under or purporting to be under this Act or any other Act of Ontario or Canada.

(12) Subsection 5 (1) of the said Act is amended by inserting after "the" in the fourth line "producing or".

(13) Clause 6 (1) (a) of the said Act is amended by inserting after "the" in the second line "producing or".

(14) Clause 6 (1) (b) of the said Act is repealed.

(15) Clause 6 (1) (c) of the said Act is amended by striking out "marketing" in the fourth line and inserting in lieu thereof "producing or marketing".

(16) Clause 6 (1) (h) of the said Act is amended by striking out "notwithstanding any other Act" in the first line.

(17) Subsection 7 (1) of the said Act is amended by,

(a) striking out "or (h)" in the third line; and

(b) inserting after "product" in the seventh line "and growing plants or development in the producing of the regulated product".

(18) Subsection 7 (2) of the said Act is amended by striking out "or (h)" in the third line.

(19) Subsection 7 (3) of the said Act is amended by striking out "or (h)" in the second and third lines.

(20) Paragraphs 1, 2, 3, 4 and 5 of subsection 8 (1) of the said Act are repealed and the following substituted therefor:

1. providing for the licensing of any or all persons before commencing or continuing to engage in the producing, marketing or processing of a regulated product and delegating to the Director the authority to grant, refuse to grant, renew, suspend and revoke licences;
2. prescribing or providing for classes of licences and the imposition of terms and conditions on any class of licence;
3. providing that the Commission, Director or local board may impose such terms and conditions upon a licence as the Commission, Director or local board considers proper;
4. prohibiting persons from engaging in the producing, marketing or processing of any regulated product except under the authority of a licence and except in compliance with the terms and conditions of the licence;
5. providing for the refusal to grant or renew or the suspension or revocation of a licence,
 - i. where the applicant or licensee is not qualified by experience, financial responsibility or equipment to properly engage in the business for which the application was made or the licence granted, or
 - ii. where the applicant or licensee has failed to comply with or has contravened any provision of this Act, the regulations, any plan or any order or direction of the Commission, Director or local board or of a marketing agency of Canada;
- 5a. providing for the imposition, amount, disposition and use of penalties where, after a hearing, the Commission, Director or local board is of the opinion that the applicant or licensee has failed to comply with or has contravened any term or condition of a licence or any provision of this Act, the regulations, any plan or any order or direction of the Commission, Director or local board;
- 5b. providing for the fixing of licence fees and the payment thereof by any or all persons producing, marketing or processing a regulated product and the

collecting of the licence fees and their recovery by suit in a court of competent jurisdiction.

(21) Paragraphs 10, 11 and 16 of the said subsection 8 (1) are repealed and the following substituted therefor:

10. requiring and providing for the furnishing of security or proof of financial responsibility or of a performance bond by a person or class of persons engaged in the producing, marketing or processing of a regulated product and providing for the administration, forfeiture and disposition of any moneys or securities so furnished and the proceeds therefrom;
11. authorizing the fixing of prompt payment discounts, delayed payment penalties and interest on licence fees and service charges owing by any person engaged in the producing, marketing or processing of a regulated product;
-
16. providing for the control and regulation of the producing or marketing of any regulated product, including the times and places at which the regulated product may be produced or marketed.

(22) Paragraph 19 of the said subsection 8 (1) is amended by striking out “notwithstanding any other Act” in the first line.

(23) Paragraphs 27 and 33 of the said subsection 8 (1) are repealed and the following substituted therefor:

27. determining the constitution of negotiating agencies, conciliation boards and boards of arbitration, providing for the appointment of arbitrators and conciliators and regulating the practice, procedure and methods of dispute resolution of such agencies, boards and arbitrators;
-
33. designating as farm products any natural products of agriculture.

(24) Paragraph 34 of the said subsection 8 (1) is amended by inserting after “the” in the third line “producing or”.

(25) Paragraph 37 of the said subsection 8 (1) is amended by striking out “established for the control and regulation of the marketing of the regulated product” in the fourth, fifth and sixth lines.

(26) Paragraph 40 of the said subsection 8 (1) is amended by inserting after “agency” in the sixth line “of Canada”.

(27) Section 8 of the said Act is amended by adding thereto the following subsections:

(1a) A penalty imposed on a producer under paragraph 5a of subsection (1) shall not exceed 10 per cent of the price payable to the producer for the regulated product marketed during the immediately preceding twelve month period by the producer and a 20 per cent reduction in the amount of regulated product which may be marketed during any twelve month period by the producer. Limitations
on penalties

(1b) A penalty imposed on a person other than a producer under paragraph 5a of subsection (1) shall not exceed 10 per cent of the price payable to the producers for the regulated product marketed or processed during the immediately preceding twelve month period by the person. Idem

(28) Clause 8 (2) (a) of the said Act is amended by striking out “later” in the eighth line and inserting in lieu thereof “other”.

(29) Subsection 8 (6) of the said Act is amended by striking out “or orders or” in the third line and inserting in lieu thereof “orders, policies and decisions or”.

(30) Subsection 9 (1) of the said Act is amended by inserting before “marketing” in the fourth line “producing or”.

(31) Subclause 9 (1) (a) (i) of the said Act is repealed and the following substituted therefor:

- (i) to direct and control, by order or direction either as principal or agent, the producing or marketing of the regulated product, including the times and places at which the regulated product may be produced or marketed.

(32) Clause 9 (1) (b) of the said Act is amended by,

- (a) striking out “the Commission” in the second and third lines and inserting in lieu thereof “it”; and

- (b) striking out “the Commission” in the third line of subclause (ii) and inserting in lieu thereof “The Ontario Apple Marketing Commission”.

(33) Clause 9 (4) (f) of the said Act is amended by inserting before “marketing” in the first line “producing or”.

(34) Section 10 of the said Act, exclusive of the clauses, is repealed and the following substituted therefor:

Limitation on
powers of
local board

10. Where the Commission delegates to a local board powers or authorizes a local board to exercise powers under this Act or vests in a local board powers under this Act, the Commission may at any time,

.

(35) The said Act is amended by adding thereto the following section:

Director

11a.—(1) The Minister may appoint a Director for the purposes of this Act.

Duties of
director

(2) The Director shall exercise the powers and perform the duties conferred or imposed under this or any other Act.

(36) Subsection 13 (1) of the said Act is amended by,

- (a) inserting before “marketing” in the seventh line “producing or”; and
- (b) inserting before “marketing” in the third line of clause (b) “producing or”.

(37) Subsection 13 (2) of the said Act is amended by inserting before “marketing” in the seventh line “producing or”.

(38) Subsection 13 (3) of the said Act is amended by,

- (a) inserting after “the” in the eighth line of clause (a) “producing or”; and
- (b) inserting after “the” in the second line of clause (b) “producing or”.

(39) Section 14 of the said Act is amended by striking out “Board or” in the eighth line and inserting in lieu thereof “Commission, Director or”.

(40) Section 16 of the said Act is repealed and the following substituted therefor:

16. Every person who contravenes this Act or the regulations or any plan or any order or direction of the Commission, the Director or any local board, or any agreement or award or renegotiated agreement or award declared to be in force by the Commission is guilty of an offence and on conviction is liable for a first offence to a fine of not more than \$2,000 for each day that the offence continues and for a subsequent offence to a fine of not more than \$10,000 for each day that the offence continues. Offences

(41) Clause 17 (2) (b) of the said Act is amended by inserting before “marketing” in the second line “producing or”.

(42) Clause 21 (2) (a) of the said Act is repealed.

(43) Subsection 21 (5) of the said Act is amended by inserting after “regulations” in the third line “policies”.

(44) Subsection 21 (7) of the said Act is repealed.

(45) Clause 22 (2) (a) of the said Act is repealed.

(46) Subsection 22 (5) of the said Act is amended by inserting after “regulations” in the third line “policies”.

3.—(1) Paragraph 4 of section 1 of the *Milk Act*, being chapter 266 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

4. “Commission” means the Ontario Farm Products Marketing Commission under the *Ministry of Agriculture and Food Act*. R.S.O. 1980,
c. 270

(2) Paragraph 22 of the said section 1 is amended by striking out “marketing” in the third line and inserting in lieu thereof “producing or marketing or both”.

(3) Clause 2 (b) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 18, section 1, is amended by striking out “marketing” in the second line and in the fourth line and inserting in lieu thereof in each instance “producing or marketing”.

(4) The heading immediately preceding section 3 of the said Act and section 3, as amended by the Statutes of Ontario, 1984, chapter 25, section 2, are repealed.

(5) Subsection 6 (1) of the said Act is amended by inserting before “marketing” in the fourth line “producing or”.

(6) Clause 7 (1) (a) of the said Act is amended by inserting after “the” in the second line “producing or”.

(7) Clause 7 (1) (f) of the said Act is amended by striking out “notwithstanding any other Act” in the first line.

(8) Subsection 7 (4) of the said Act is repealed and the following substituted therefor:

Marketing board is body corporate
R.S.O. 1980, cc. 95, 96

(4) Every marketing board is a body corporate to which the *Corporations Act* and the *Corporations Information Act* do not apply.

(9) Subsection 7 (6) of the said Act is repealed and the following substituted therefor:

No personal liability

(6) No member of a marketing board and no officer, clerk or employee of a marketing board is personally liable for anything done or omitted to be done by the board or by the member, officer, clerk or employee in good faith in the exercise of any power or the performance of any duty under or purporting to be under this Act or any other Act of Ontario or Canada.

(10) Paragraphs 2, 3, 4 and 5 of subsection 8 (1) of the said Act are repealed and the following substituted therefor:

2. prescribing or providing for classes of licences and the imposition of terms and conditions on any class of licence;
3. providing that the Commission or marketing board may impose such terms and conditions upon a licence as the Commission or marketing board considers proper;
4. prohibiting persons from engaging in the producing, marketing or processing of any regulated product except under the authority of a licence and except in compliance with the terms and conditions of the licence;
5. providing for the refusal to grant or renew or the suspension or revocation of a licence,
 - i. where the applicant or licensee is not qualified by experience, financial responsibility or

equipment to properly engage in the business for which the application was made or the licence granted, or

- ii. where the applicant or licensee has failed to comply with or has contravened any provision of this Act, the regulations, any plan or any order or direction of the Commission or marketing board or of a marketing agency of Canada;
-
- 5a. providing for the imposition, amount, disposition and use of penalties where, after a hearing, the Commission or marketing board is of the opinion that the applicant or licensee has failed to comply with or has contravened any term or condition of a licence or any provision of this Act, the regulations, any plan or any order or direction of the Commission or marketing board;
 - 5b. providing for the fixing of licence fees and the payment thereof by any or all persons producing, marketing or processing a regulated product and the collecting of the licence fees and their recovery by suit in a court of competent jurisdiction.

(11) Paragraph 10 of the said subsection 8 (1) is repealed and the following substituted therefor:

- 10. requiring and providing for the furnishing of security or proof of financial responsibility or of a performance bond by a person or class of persons engaged in the producing, marketing or processing of a regulated product and providing for the administration, forfeiture and disposition of any moneys or securities so furnished and the proceeds therefrom;
- 10a. authorizing the fixing of prompt payment discounts, delayed payment penalties and interest on licence fees and service charges owing by any person engaged in the producing, marketing or processing of a regulated product.

(12) Paragraph 13 of the said subsection 8 (1) is repealed and the following substituted therefor:

- 13. providing for the control and regulation of the producing or marketing of any regulated product,

including the times and places at which the regulated product may be produced or marketed.

(13) Paragraph 21 of the said subsection 8 (1) is amended by striking out “notwithstanding any other Act” in the first line.

(14) Paragraph 28 of the said subsection 8 (1) is repealed and the following substituted therefor:

28. determining the constitution of negotiating agencies, conciliation boards and boards of arbitration, providing for the appointment of arbitrators and conciliators and regulating the practice, procedure and methods of dispute resolution of such agencies, boards and arbitrators.

(15) Section 8 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 18, section 2, is further amended by adding thereto the following subsections:

Limitation on penalties

(1a) A penalty imposed on a producer under paragraph 5a of subsection (1) shall not exceed 10 per cent of the price payable to the producer for the regulated product marketed during the immediately preceding twelve month period by the producer and a 20 per cent reduction in the amount of regulated product which may be marketed during any twelve month period by the producer.

Idem

(1b) A penalty imposed on a person other than a producer under paragraph 5a of subsection (1) shall not exceed 10 per cent of the price payable to the producers for the regulated product marketed or processed during the immediately preceding twelve month period by the person.

(16) Clause 8 (2) (a) of the said Act is amended by striking out “later” in the eighth line and inserting in lieu thereof “other”.

(17) Subsection 8 (7) of the said Act is amended by striking out “or orders” in the fourth line and inserting in lieu thereof “orders, policies and decisions”.

(18) Subsection 8 (9) of the said Act, exclusive of the clauses, is repealed and the following substituted therefor:

Limitations on powers, etc., of marketing boards

(9) Where the Commission delegates to a marketing board powers or authorizes a marketing board to exercise powers under this Act, the Commission may at any time,

(19) Subsection 20 (1) of the said Act is amended by adding thereto the following paragraphs:

- 3a. providing that the Director may impose such terms and conditions upon a licence under paragraphs 1 and 2 as the Director considers proper;
- 3b. providing for the imposition, amount, disposition and use of penalties where, after a hearing, the Director is of the opinion that the applicant or licensee has failed to comply with or has contravened any term or condition of a licence under paragraphs 1 and 2 or any provision of this Act, the regulations, any plan or any order or direction of the Commission.

(20) Paragraphs 4 and 48 of the said subsection 20 (1) are repealed and the following substituted therefor:

- 4. requiring and providing for the furnishing of security or proof of financial responsibility or of a performance bond by a distributor or class of distributors or any person engaged in the operation of a plant or any class of plant;
- 48. regulating and prohibiting the addition to or removal from milk, cream or fluid milk products of any substance, and regulating and prohibiting the marketing of milk, cream or fluid milk products to which the substance has been added or from which the substance has been removed.

(21) Section 20 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 56, section 2 and 1984, chapter 25, section 4, is further amended by adding thereto the following subsection:

(1a) A penalty imposed under paragraph 3b of subsection (1) shall not exceed 10 per cent of the price payable to the producers for the regulated product marketed or processed during the immediately preceding twelve month period by the distributor or person engaged in the operation of a plant.

Limitation on penalties

(22) Section 22 of the said Act is repealed and the following substituted therefor:

22. Every person who contravenes this Act or the regulations, or any plan or any order or direction of the Commis-

Offences

sion, the Director or any marketing board, or any agreement or award or renegotiated agreement or award declared to be in force by the Commission, or any by-law under this Act, is guilty of an offence and on conviction is liable for a first offence to a fine of not more than \$2,000 for each day that the offence continues and for a subsequent offence to a fine of not more than \$10,000 for each day that the offence continues.

(23) Clause 24 (2) (b) of the said Act is amended by inserting before “marketing” in the second line “producing or”.

Commence-
ment

4. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

5. The short title of this Act is the *Ministry of Agriculture and Food Statute Law Amendment Act, 1988*.

Bill 66

An Act respecting Agricultural and Horticultural Organizations

The Hon. J. Riddell

Minister of Agriculture and Food



1st Reading December 9th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill revises and replaces the *Agricultural Associations Act*, the *Agricultural Societies Act* and the *Horticultural Societies Act*. Obsolete provisions have been removed and the administrative provisions standardized for all three types of organizations.

The amount or the formula for determining the amount of the grants to be paid are to be established by regulation.

Bill 66

1987

An Act respecting Agricultural and Horticultural Organizations

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

GENERAL

1. In this Act,

Definitions

“board” means the board of directors of an organization;

“Director” means the person appointed as Director under section 4;

“Minister” means the Minister of Agriculture and Food;

“organization” means an agricultural association, agricultural society or horticultural society to which this Act applies.

2. This Act applies to every agricultural association, agricultural society or horticultural society incorporated or continued under this Act.

Application

3.—(1) Every organization is a corporation without share capital.

Body
corporate

(2) The *Corporations Information Act* does not apply to an organization.

R.S.O. 1980,
c. 96 does
not apply

4. The Minister shall appoint an officer of the Ministry of Agriculture and Food to be the Director for the purposes of this Act.

Appointment
of Director

5. An organization may be incorporated under this Act if each applicant signs the articles of incorporation and the articles of incorporation are forwarded to the Director.

Articles of
incorporation

Contents of
articles

6. Articles of incorporation shall set out,

- (a) the name of the organization to be incorporated;
- (b) the type of organization;
- (c) the objects for which the organization is to be incorporated;
- (d) the place in Ontario where the registered office of the organization is to be located;
- (e) the names and addresses of one or more proposed first directors;
- (f) the names and addresses of the members of the organization; and
- (g) any other matter required by this Act or the regulations to be set out in the articles.

Certificate of
incorporation

7.—(1) If the Minister is satisfied that the requirements of this Act have been met and it is in the public interest to do so, the Minister may issue a certificate of incorporation to which is attached a copy of the articles of incorporation.

Date of
incorporation

(2) An organization comes into existence on the date set out in its certificate of incorporation.

Name

8.—(1) An organization shall bear the name designated in the articles of incorporation.

Dispute over
name

(2) If there is a dispute as to the name of an organization or if, in the opinion of the Minister, the name of an organization prejudicially affects the interests of another organization or corporation, the Minister may issue a certificate of amendment to the articles of incorporation changing the name of the organization.

Amendments
to articles

9. An organization may by by-law, with the approval of the Minister, amend its articles of incorporation to change any provision set out in its articles including its name.

Annual
meeting

10.—(1) Each organization shall hold an annual meeting of its members not later than six months after its incorporation and subsequently not more than fifteen months after the holding of the last preceding annual meeting or such other time as the Director may approve.

(2) The time and place of the annual meeting shall be set out in a by-law of the organization. Idem

(3) At least two weeks notice of the annual meeting shall be given by mailing it to each member of the organization and, Notice of annual meeting

(a) by publishing it in a newspaper generally circulated in the area of the headquarters of the organization; or

(b) by publishing it in a periodical that is generally circulated in the agricultural or horticultural community, as appropriate.

11.—(1) The members of each organization, at the annual meeting, shall elect a board of directors. Board of directors

(2) The number of directors, their representation of certain districts or classes of members, and their method of selection shall be set out in the by-laws of the organization. Idem

(3) The directors shall appoint a treasurer or secretary-treasurer. Treasurer and secretary-treasurer

(4) Subject to subsection (3), the officers of the organization shall be appointed in the manner set out in the by-laws of the organization. Officers

(5) At each annual meeting, the retiring directors of the board shall present a report of the activities of the organization during the previous year and the audited financial statement for the previous year. Annual report and financial statement

12.—(1) Every board shall require the treasurer or secretary-treasurer to give security to cover against any loss of the funds of the organization. Security against loss

(2) Every board shall, in each year, inquire into the sufficiency of the security. Sufficiency of security

(3) If the security is insufficient, each director of the board is personally liable for any loss suffered by the organization thereby. Directors responsible for loss

13. No compensation shall be paid to a director, officer or member of an agricultural society or horticultural society, other than the treasurer, secretary-treasurer or secretary but reasonable expenses incurred by a director, officer or member in the performance of his or her duties may be paid. Compensation

Meetings of
the board

14. A meeting of the board shall be called by the secretary upon the direction of the president or of any three members of the board by sending notice thereof to all the members of the board at least seven days before the time fixed for the meeting.

Annual
reports

15.—(1) Every organization shall, within ninety days of the annual meeting of the organization, submit to the Director,

- (a) a copy of the audited financial statement;
- (b) a statement of the number of current members;
- (c) a list of the directors and officers of the organization and their addresses; and
- (d) a copy of the annual report submitted at the annual meeting.

Information
to be public

(2) The information filed under subsection (1) shall be open to examination by the public upon request to the Director.

Director may
require
information

(3) The Director may require an organization or an officer of the organization to furnish such information regarding the organization that the Director considers necessary or advisable.

Affidavits as
to accuracy

(4) The Director may require that any information submitted under subsection (3) be accompanied by an affidavit of all or any of the officers of the organization deposing as to its accuracy.

Offence

16. Any officer, director or auditor of an organization who makes a false statement in any report or information required under this Act is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

Legislative
grant

17.—(1) The Minister may make grants in the amount and to the organizations prescribed by regulation out of the moneys appropriated by the Legislature for such purposes.

Condition of
grant

(2) It is a condition of the payment of a grant that none of the funds of the organization, from whatever source derived, have been expended in a manner inconsistent with the objects of the organization.

(3) The Minister may appoint a person to inspect the books and accounts of any organization and the books and accounts of the organization shall be made available for that purpose.

Inspection

18.—(1) If an organization fails to comply with section 15, the Minister may cancel the certificate of incorporation of the organization and it is dissolved on the date specified by the Minister.

Dissolution for cause

(2) No organization shall be dissolved under this section unless twelve months notice has been given to the board of the organization by the Minister of the intention to dissolve the organization and the board is given the opportunity to bring the organization into good standing within that time.

Notice of dissolution

19. An organization may be dissolved by the Minister upon the authorization of a special resolution passed at a meeting of the members of the organization duly called for that purpose.

Dissolution upon request

20.—(1) If an organization is dissolved by the Minister, the persons comprising the board at the date of dissolution are the trustees of the assets of the organization and shall deliver to the Director a statement of the assets and liabilities of the organization.

Trustees

(2) The Director may direct the trustees to pay the debts of the organization and liquidate any of the assets for such purposes.

Payment of debts on dissolution

(3) Subject to the approval of the Director, all money and assets remaining after the payment of debts shall be disposed of by the trustees in such manner as they may determine.

Disposition of assets

PART II

AGRICULTURAL ASSOCIATIONS

21.—(1) This Part applies to agricultural associations.

Application

(2) Every agricultural association incorporated under the *Agricultural Associations Act* is continued as an agricultural association under this Act.

Associations continued
R.S.O. 1980, c. 8

22. An association or group of persons formed for the purpose of advancing agriculture may be incorporated under this Act as an agricultural association.

Eligibility for incorporation

23. The objects of an agricultural association are,

Objects

- (a) to promote the development, sale and export of agricultural products; and
- (b) to provide educational opportunities related to agriculture and rural life.

Minimum
membership

24. The Lieutenant Governor in Council may by regulation establish the minimum membership required for an agricultural association to be incorporated under this Act.

PART III

AGRICULTURAL SOCIETIES

Application

25.—(1) This Part applies to agricultural societies.

Societies
continued
R.S.O. 1980,
c. 14

(2) Every agricultural society incorporated under the *Agricultural Societies Act* is continued as an agricultural society under this Act.

Deemed
societies

(3) The Western Fair Association and Central Canada Exhibition are deemed to be agricultural societies incorporated under this Act.

Criteria for
incorporation

26. An agricultural society may be incorporated if,

- (a) the articles of incorporation are signed by at least sixty persons who reside within forty kilometres of the place designated as the headquarters of a society; and
- (b) at least twenty of the incorporators are engaged in an agricultural occupation.

Refusal to
incorporate
society

27. If the headquarters of a proposed agricultural society is within forty kilometres of the headquarters of an existing society, the Minister shall notify the existing society and if it objects to the proposed society, the Minister may refuse to incorporate the proposed society.

Objects

28. The objects of an agricultural society are to encourage an awareness of agriculture and to promote improvements in the quality of life of persons living in an agricultural community by,

- (a) researching the needs of the agricultural community and developing programs to meet those needs;
- (b) holding agricultural exhibitions featuring competitions for which prizes may be awarded;

- (c) promoting the conservation of natural resources;
- (d) encouraging the beautification of the agricultural community;
- (e) supporting and providing facilities to encourage
 - activities intended to enrich rural life; and
- (f) conducting or promoting horse races when authorized to do so by a by-law of the society.

29. If an agricultural society has not held an annual meeting in the time period prescribed under subsection 10 (1), the Director may appoint a time and place for the meeting to be held.

Failure to hold annual meeting

30. The land, as defined in the *Assessment Act*, occupied by an agricultural society or a tenant of a society is exempt from taxes for municipal and school purposes, other than local improvement rates, so long as the land or the proceeds from the rental of the land is used solely for the purposes of the society.

Tax exemption
R.S.O. 1980,
c. 31

31. The board of a society may pass by-laws,

- (a) prohibiting any theatrical, circus or acrobatic performance; and
- (b) regulating the sale of goods and produce,

By-laws respecting exhibition grounds

on exhibition grounds operated by the society or within 275 metres thereof on the day of an exhibition organized by the society.

32. Any person may join an agricultural society by paying the annual fee set out in a by-law of the society but no person under the age of eighteen years is eligible to vote at meetings of the society.

Membership open

PART IV

HORTICULTURAL SOCIETIES

33.—(1) This Part applies to horticultural societies.

Application

(2) Every horticultural society incorporated under the *Horticultural Societies Act* is continued as a horticultural society under this Act.

Societies continued
R.S.O. 1980,
c. 204

Society
may be
incorporated
R.S.O. 1980,
c. 302

34.—(1) A horticultural society may be incorporated to carry out its objects in any local municipality, as defined in the *Municipal Act*, having a population of not less than 200.

Additional
societies

(2) In a local municipality, having a population of not less than 25,000, there may be two horticultural societies and for each additional 25,000 of population, there may be an additional society.

Where
municipal
reorgani-
zation

(3) A reorganization, amalgamation or boundary alteration of a municipality does not affect any horticultural society that has been incorporated prior thereto.

Criteria for
incorporation

35. A horticultural society may be incorporated if,

- (a) the articles of incorporation are signed by at least twenty-five persons in a territorial district or fifty persons elsewhere in Ontario; and
- (b) the incorporators are residents of the municipality or municipalities in which the society is to be incorporated.

Objects

36. The objects of a horticultural society are to encourage interest and improvement in horticulture,

- (a) by holding meetings respecting the theory and practice of horticulture;
- (b) by encouraging the planting of trees, shrubs and flowers on public and private grounds;
- (c) by promoting balcony and community gardening and outdoor beautification;
- (d) by arranging field trips, contests, competitions and exhibitions related to horticulture and awarding prizes;
- (e) by distributing seeds, plants, bulbs, flowers, trees and shrubs;
- (f) by promoting the protection of the environment;
- (g) by promoting the circulation of horticultural information through any media;
- (h) by promoting the benefits of therapeutic horticulture; and

- (i) by stimulating an interest in the study of horticulture.

37. A horticultural society shall not spend more than one-half of its total annual receipts, excluding grants or donations made for specific purposes, upon any one of the projects enumerated in section 36 except for the planting of trees, shrubs and plants on public grounds and the promotion of outdoor beautification.

Expenditures
restricted

38.—(1) Any person may join a horticultural society by paying the annual fee set out in a by-law of the society but no person under the age of eighteen years is eligible to vote at meetings of the society.

Eligibility for
membership

(2) Except as otherwise provided in the by-laws of a horticultural society, a partnership or corporation or an association directed towards horticultural interests may become a member of the society upon payment of the annual fee and shall designate one person to exercise the privilege of membership in the society.

Types of
membership

39. Every horticultural society is entitled to be affiliated with the Ontario Horticultural Association upon payment of the fees established by the Association.

Affiliation

40. The board of a horticultural society may pass by-laws respecting the awarding of prizes for a product at an exhibition of the society.

By-laws
respecting
prizes

PART V

MISCELLANEOUS

41. The Lieutenant Governor in Council may make regulations,

Regulations

- (a) providing the terms and conditions upon which an agricultural society may hold races or trials of speed for horses and the amount of the prizes awarded therefor;
- (b) prescribing those organizations that are eligible to receive grants and prescribing the terms and conditions under which the grants may be paid;
- (c) establishing the amounts of any grants payable and the minimum or maximum amounts of such grants;

- (d) establishing a formula for determining the amount of any grant payable;
- (e) prescribing the powers and duties of the officers of any organization;
- (f) prescribing matters to be set out in the articles of incorporation;
- (g) prescribing criteria to be contained in the by-laws of a specific organization or of any class of organization;
- (h) respecting the expenditures of an organization and the filing of information related to such expenditures;
- (i) prescribing matters to be set out in the annual report;
- (j) respecting the names of organizations and the filing of documents relating to the names and requiring the registration of the names in the manner set out in the regulations.

Repeals

42. The following are repealed:

1. The *Agricultural Associations Act*, being chapter 8 of the Revised Statutes of Ontario, 1980.
2. The *Agricultural Societies Act*, being chapter 14 of the Revised Statutes of Ontario, 1980.
3. The *Agricultural Societies Amendment Act, 1982*, being chapter 51.
4. The *Horticultural Societies Act*, being chapter 204 of the Revised Statutes of Ontario, 1980.
5. The *Horticultural Societies Amendment Act, 1982*, being chapter 52.

43. Section 11a of the *Canadian National Exhibition Association Act, 1983*, being chapter Pr23, as enacted by the Statutes of Ontario, 1985, chapter Pr8, section 3, is repealed and the following substituted therefor:

Deemed
agricultural
society
1987, c....

11a.—(1) The Association shall be deemed to be an agricultural society organized under the *Agricultural and Horticultural Organizations Act, 1987*.

(2) Notwithstanding subsection (1), subsection 3 (2), sections 10, 11, 12, 13, 14, 15, 18, 19, 20, 26, 27, 29 and 32 of the *Agricultural and Horticultural Organizations Act, 1987* do not apply to the Association.

Non-appli-
cation of
certain
provisions

(3) The *Corporations Information Act* applies to the Association.

R.S.O. 1980,
c. 96 applies

44. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

45. The short title of this Act is the *Agricultural and Horticultural Organizations Act, 1987*.

Short title

Bill 66

*(Chapter 60
Statutes of Ontario, 1988)*

An Act respecting Agricultural and Horticultural Organizations

The Hon. J. Riddell
Minister of Agriculture and Food



<i>1st Reading</i>	December 9th, 1987
<i>2nd Reading</i>	November 15th, 1988
<i>3rd Reading</i>	December 7th, 1988
<i>Royal Assent</i>	December 15th, 1988

Bill 66

1987

An Act respecting Agricultural and Horticultural Organizations

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

GENERAL

1. In this Act,

Definitions

“board” means the board of directors of an organization;

“Director” means the person appointed as Director under section 4;

“Minister” means the Minister of Agriculture and Food;

“organization” means an agricultural association, agricultural society or horticultural society to which this Act applies.

2. This Act applies to every agricultural association, agricultural society or horticultural society incorporated or continued under this Act.

Application

3.—(1) Every organization is a corporation without share capital.

Body
corporate

(2) The *Corporations Information Act* does not apply to an organization.

R.S.O. 1980,
c. 96 does
not apply

4. The Minister shall appoint an officer of the Ministry of Agriculture and Food to be the Director for the purposes of this Act.

Appointment
of Director

5. An organization may be incorporated under this Act if each applicant signs the articles of incorporation and the articles of incorporation are forwarded to the Director.

Articles of
incorporation

Contents of
articles

6. Articles of incorporation shall set out,

- (a) the name of the organization to be incorporated;
- (b) the type of organization;
- (c) the objects for which the organization is to be incorporated;
- (d) the place in Ontario where the registered office of the organization is to be located;
- (e) the names and addresses of one or more proposed first directors;
- (f) the names and addresses of the members of the organization; and
- (g) any other matter required by this Act or the regulations to be set out in the articles.

Certificate of
incorporation

7.—(1) If the Minister is satisfied that the requirements of this Act have been met and it is in the public interest to do so, the Minister may issue a certificate of incorporation to which is attached a copy of the articles of incorporation.

Date of
incorporation

(2) An organization comes into existence on the date set out in its certificate of incorporation.

Name

8.—(1) An organization shall bear the name designated in the articles of incorporation.

Dispute over
name

(2) If there is a dispute as to the name of an organization or if, in the opinion of the Minister, the name of an organization prejudicially affects the interests of another organization or corporation, the Minister may issue a certificate of amendment to the articles of incorporation changing the name of the organization.

Amendments
to articles

9. An organization may by by-law, with the approval of the Minister, amend its articles of incorporation to change any provision set out in its articles including its name.

Annual
meeting

10.—(1) Each organization shall hold an annual meeting of its members not later than six months after its incorporation and subsequently not more than fifteen months after the holding of the last preceding annual meeting or such other time as the Director may approve.

(2) The time and place of the annual meeting shall be set out in a by-law of the organization. Idem

(3) At least two weeks notice of the annual meeting shall be given by mailing it to each member of the organization and, Notice of annual meeting

- (a) by publishing it in a newspaper generally circulated in the area of the headquarters of the organization; or
- (b) by publishing it in a periodical that is generally circulated in the agricultural or horticultural community, as appropriate.

11.—(1) The members of each organization, at the annual meeting, shall elect a board of directors. Board of directors

(2) The number of directors, their representation of certain districts or classes of members, and their method of selection shall be set out in the by-laws of the organization. Idem

(3) The directors shall appoint a treasurer or secretary-treasurer. Treasurer and secretary-treasurer

(4) Subject to subsection (3), the officers of the organization shall be appointed in the manner set out in the by-laws of the organization. Officers

(5) At each annual meeting, the retiring directors of the board shall present a report of the activities of the organization during the previous year and the audited financial statement for the previous year. Annual report and financial statement

12.—(1) Every board shall require the treasurer or secretary-treasurer to give security to cover against any loss of the funds of the organization. Security against loss

(2) Every board shall, in each year, inquire into the sufficiency of the security. Sufficiency of security

(3) If the security is insufficient, each director of the board is personally liable for any loss suffered by the organization thereby. Directors responsible for loss

13. No compensation shall be paid to a director, officer or member of an agricultural society or horticultural society, other than the treasurer, secretary-treasurer or secretary but reasonable expenses incurred by a director, officer or member in the performance of his or her duties may be paid. Compensation

Meetings of
the board

14. A meeting of the board shall be called by the secretary upon the direction of the president or of any three members of the board by sending notice thereof to all the members of the board at least seven days before the time fixed for the meeting.

Annual
reports

15.—(1) Every organization shall, within ninety days of the annual meeting of the organization, submit to the Director,

- (a) a copy of the audited financial statement;
- (b) a statement of the number of current members;
- (c) a list of the directors and officers of the organization and their addresses; and
- (d) a copy of the annual report submitted at the annual meeting.

Information
to be public

(2) The information filed under subsection (1) shall be open to examination by the public upon request to the Director.

Director may
require
information

(3) The Director may require an organization or an officer of the organization to furnish such information regarding the organization that the Director considers necessary or advisable.

Affidavits as
to accuracy

(4) The Director may require that any information submitted under subsection (3) be accompanied by an affidavit of all or any of the officers of the organization deposing as to its accuracy.

Offence

16. Any officer, director or auditor of an organization who makes a false statement in any report or information required under this Act is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

Legislative
grant

17.—(1) The Minister may make grants in the amount and to the organizations prescribed by regulation out of the moneys appropriated by the Legislature for such purposes.

Condition of
grant

(2) It is a condition of the payment of a grant that none of the funds of the organization, from whatever source derived, have been expended in a manner inconsistent with the objects of the organization.

(3) The Minister may appoint a person to inspect the books and accounts of any organization and the books and accounts of the organization shall be made available for that purpose.

Inspection

18.—(1) If an organization fails to comply with section 15, the Minister may cancel the certificate of incorporation of the organization and it is dissolved on the date specified by the Minister.

Dissolution for cause

(2) No organization shall be dissolved under this section unless twelve months notice has been given to the board of the organization by the Minister of the intention to dissolve the organization and the board is given the opportunity to bring the organization into good standing within that time.

Notice of dissolution

19. An organization may be dissolved by the Minister upon the authorization of a special resolution passed at a meeting of the members of the organization duly called for that purpose.

Dissolution upon request

20.—(1) If an organization is dissolved by the Minister, the persons comprising the board at the date of dissolution are the trustees of the assets of the organization and shall deliver to the Director a statement of the assets and liabilities of the organization.

Trustees

(2) The Director may direct the trustees to pay the debts of the organization and liquidate any of the assets for such purposes.

Payment of debts on dissolution

(3) Subject to the approval of the Director, all money and assets remaining after the payment of debts shall be disposed of by the trustees in such manner as they may determine.

Disposition of assets

PART II

AGRICULTURAL ASSOCIATIONS

21.—(1) This Part applies to agricultural associations.

Application

(2) Every agricultural association incorporated under the *Agricultural Associations Act* is continued as an agricultural association under this Act.

Associations continued
R.S.O. 1980,
c. 8

22. An association or group of persons formed for the purpose of advancing agriculture may be incorporated under this Act as an agricultural association.

Eligibility for incorporation

23. The objects of an agricultural association are,

Objects

- (a) to promote the development, sale and export of agricultural products; and
- (b) to provide educational opportunities related to agriculture and rural life.

Minimum
membership

24. The Lieutenant Governor in Council may by regulation establish the minimum membership required for an agricultural association to be incorporated under this Act.

PART III

AGRICULTURAL SOCIETIES

Application

25.—(1) This Part applies to agricultural societies.

Societies
continued
R.S.O. 1980,
c. 14

(2) Every agricultural society incorporated under the *Agricultural Societies Act* is continued as an agricultural society under this Act.

Deemed
societies

(3) The Western Fair Association and Central Canada Exhibition are deemed to be agricultural societies incorporated under this Act.

Criteria for
incorporation

26. An agricultural society may be incorporated if,

- (a) the articles of incorporation are signed by at least sixty persons who reside within forty kilometres of the place designated as the headquarters of a society; and
- (b) at least twenty of the incorporators are engaged in an agricultural occupation.

Refusal to
incorporate
society

27. If the headquarters of a proposed agricultural society is within forty kilometres of the headquarters of an existing society, the Minister shall notify the existing society and if it objects to the proposed society, the Minister may refuse to incorporate the proposed society.

Objects

28. The objects of an agricultural society are to encourage an awareness of agriculture and to promote improvements in the quality of life of persons living in an agricultural community by,

- (a) researching the needs of the agricultural community and developing programs to meet those needs;
- (b) holding agricultural exhibitions featuring competitions for which prizes may be awarded;

- (c) promoting the conservation of natural resources;
- (d) encouraging the beautification of the agricultural community;
- (e) supporting and providing facilities to encourage activities intended to enrich rural life; and
- (f) conducting or promoting horse races when authorized to do so by a by-law of the society.

29. If an agricultural society has not held an annual meeting in the time period prescribed under subsection 10 (1), the Director may appoint a time and place for the meeting to be held.

Failure to
hold annual
meeting

30. The land, as defined in the *Assessment Act*, occupied by an agricultural society or a tenant of a society is exempt from taxes for municipal and school purposes, other than local improvement rates, so long as the land or the proceeds from the rental of the land is used solely for the purposes of the society.

Tax
exemption
R.S.O. 1980,
c. 31

31. The board of a society may pass by-laws,

By-laws
respecting
exhibition
grounds

- (a) prohibiting any theatrical, circus or acrobatic performance; and
- (b) regulating the sale of goods and produce,

on exhibition grounds operated by the society or within 275 metres thereof on the day of an exhibition organized by the society.

32. Any person may join an agricultural society by paying the annual fee set out in a by-law of the society but no person under the age of eighteen years is eligible to vote at meetings of the society.

Membership
open

PART IV

HORTICULTURAL SOCIETIES

33.—(1) This Part applies to horticultural societies.

Application

(2) Every horticultural society incorporated under the *Horticultural Societies Act* is continued as a horticultural society under this Act.

Societies
continued
R.S.O. 1980,
c. 204

Society
may be
incorporated
R.S.O. 1980,
c. 302

34.—(1) A horticultural society may be incorporated to carry out its objects in any local municipality, as defined in the *Municipal Act*, having a population of not less than 200.

Additional
societies

(2) In a local municipality, having a population of not less than 25,000, there may be two horticultural societies and for each additional 25,000 of population, there may be an additional society.

Where
municipal
reorgani-
zation

(3) A reorganization, amalgamation or boundary alteration of a municipality does not affect any horticultural society that has been incorporated prior thereto.

Criteria for
incorporation

35. A horticultural society may be incorporated if,

- (a) the articles of incorporation are signed by at least twenty-five persons in a territorial district or fifty persons elsewhere in Ontario; and
- (b) the incorporators are residents of the municipality or municipalities in which the society is to be incorporated.

Objects

36. The objects of a horticultural society are to encourage interest and improvement in horticulture,

- (a) by holding meetings respecting the theory and practice of horticulture;
- (b) by encouraging the planting of trees, shrubs and flowers on public and private grounds;
- (c) by promoting balcony and community gardening and outdoor beautification;
- (d) by arranging field trips, contests, competitions and exhibitions related to horticulture and awarding prizes;
- (e) by distributing seeds, plants, bulbs, flowers, trees and shrubs;
- (f) by promoting the protection of the environment;
- (g) by promoting the circulation of horticultural information through any media;
- (h) by promoting the benefits of therapeutic horticulture; and

- (i) by stimulating an interest in the study of horticulture.

37. A horticultural society shall not spend more than one-half of its total annual receipts, excluding grants or donations made for specific purposes, upon any one of the projects enumerated in section 36 except for the planting of trees, shrubs and plants on public grounds and the promotion of outdoor beautification. Expenditures restricted

38.—(1) Any person may join a horticultural society by paying the annual fee set out in a by-law of the society but no person under the age of eighteen years is eligible to vote at meetings of the society. Eligibility for membership

(2) Except as otherwise provided in the by-laws of a horticultural society, a partnership or corporation or an association directed towards horticultural interests may become a member of the society upon payment of the annual fee and shall designate one person to exercise the privilege of membership in the society. Types of membership

39. Every horticultural society is entitled to be affiliated with the Ontario Horticultural Association upon payment of the fees established by the Association. Affiliation

40. The board of a horticultural society may pass by-laws respecting the awarding of prizes for a product at an exhibition of the society. By-laws respecting prizes

PART V

MISCELLANEOUS

41. The Lieutenant Governor in Council may make regulations, Regulations

- (a) providing the terms and conditions upon which an agricultural society may hold races or trials of speed for horses and the amount of the prizes awarded therefor;
- (b) prescribing those organizations that are eligible to receive grants and prescribing the terms and conditions under which the grants may be paid;
- (c) establishing the amounts of any grants payable and the minimum or maximum amounts of such grants;

- (d) establishing a formula for determining the amount of any grant payable;
- (e) prescribing the powers and duties of the officers of any organization;
- (f) prescribing matters to be set out in the articles of incorporation;
- (g) prescribing criteria to be contained in the by-laws of a specific organization or of any class of organization;
- (h) respecting the expenditures of an organization and the filing of information related to such expenditures;
- (i) prescribing matters to be set out in the annual report;
- (j) respecting the names of organizations and the filing of documents relating to the names and requiring the registration of the names in the manner set out in the regulations.

Repeals

42. The following are repealed:

1. The *Agricultural Associations Act*, being chapter 8 of the Revised Statutes of Ontario, 1980.
2. The *Agricultural Societies Act*, being chapter 14 of the Revised Statutes of Ontario, 1980.
3. The *Agricultural Societies Amendment Act, 1982*, being chapter 51.
4. The *Horticultural Societies Act*, being chapter 204 of the Revised Statutes of Ontario, 1980.
5. The *Horticultural Societies Amendment Act, 1982*, being chapter 52.

43. Section 11a of the *Canadian National Exhibition Association Act, 1983*, being chapter Pr23, as enacted by the Statutes of Ontario, 1985, chapter Pr8, section 3, is repealed and the following substituted therefor:

Deemed
agricultural
society
1988, c. 60

11a.—(1) The Association shall be deemed to be an agricultural society organized under the *Agricultural and Horticultural Organizations Act, 1988*.

(2) Notwithstanding subsection (1), subsection 3 (2), sections 10, 11, 12, 13, 14, 15, 18, 19, 20, 26, 27, 29 and 32 of the *Agricultural and Horticultural Organizations Act, 1988* do not apply to the Association.

Non-appli-
cation of
certain
provisions

(3) The *Corporations Information Act* applies to the Association. –

R.S.O. 1980,
c. 96 applies

44. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

45. The short title of this Act is the *Agricultural and Horticultural Organizations Act, 1988*.

Short title

Bill 67

An Act to establish the East/Central Ontario Recreational Trails Commission

Mr. Pollock



1st Reading December 10th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill establishes the East/Central Ontario Recreational Trails Commission that may purchase property in Eastern and Central Ontario in order to establish recreational trails.

Bill 67**1987**

**An Act to establish the East/Central Ontario
Recreational Trails Commission**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“Commission” means the East/Central Ontario Recreational Trails Commission established under section 2;

“Marmora-Lake St. Peter subdivision” means the one hundred and fifty-one kilometres of land, owned by Canadian National Railways, that runs between Glen Ross in Hastings County and Lake St. Peter in Hastings County and that formerly was used as a railway line;

“prescribed” means prescribed by regulations;

“recreational purposes” means skiing, walking, snowmobiling, snow shoeing, use of recreational vehicles and similar activities.

2. There is hereby established a commission to be known as the East/Central Ontario Recreational Trails Commission.

Commission
established

3.—(1) The Commission shall be composed of not fewer than seven members appointed by the Lieutenant Governor in Council.

Membership

(2) The Lieutenant Governor in Council may appoint a member of the Commission to be its chairperson.

Chairperson

(3) A majority of the members of the Commission constitutes a quorum.

Quorum

4.—(1) The Commission may,

Powers

- (a) purchase property in Central and Eastern Ontario, including the Marmora-Lake St. Peter subdivision, in order to establish recreational trails; and
- (b) erect fences, signs and bridges and perform other maintenance on property purchased by the Commission as the Commission considers necessary.

Additional
properties

(2) Notwithstanding clause (1) (a), the Commission may purchase additional properties as it deems necessary and within its mandate.

Local
committees

5.—(1) The Commission shall appoint a committee composed of not less than seven members to carry out the daily management of each recreational trail.

Composition

(2) The members of each committee shall be appointed in the following manner:

- 1. No less than two members shall be appointed from the trail association in the county or region where the trail is located, if there is a trail association.
- 2. No less than five members shall be appointed from the municipality or municipalities where the trail is located.

Regulations

6. The Lieutenant Governor in Council may make regulations prescribing the duties of the members of the Commission.

Commence-
ment

7. This Act comes into force on the day it receives Royal Assent.

Short title

8. The short title of this Act is the *East/Central Ontario Recreational Trails Commission Act, 1987*.

Bill 68

An Act to promote the Conservation of Certain Land

The Hon. V. Kerrio
Minister of Natural Resources



1st Reading December 14th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is set out in subsection 2 (1).

Bill 68**1987****An Act to promote the Conservation of Certain Land**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“Areas of Natural and Scientific Interest” means areas of land and water containing natural landscapes or features that have been identified by the Ministry of Natural Resources as having values related to protection, natural heritage appreciation, scientific study or education;

“Conservation Authority land” means land owned by a Conservation Authority;

“conservation land” includes wetland, Areas of Natural and Scientific Interest, land within the Niagara Escarpment Planning Area, Conservation Authority land and such other land owned by non-profit organizations that through their management contribute to provincial conservation and heritage program objectives;

“Minister” means the Minister of Natural Resources;

“Niagara Escarpment Planning Area” means the geographic area contained within the Niagara Escarpment Plan;

“wetland” means land,

- (a) that is seasonally or permanently covered by shallow water, or
- (b) in respect of which the water table is close to or at the surface,

so that the presence of abundant water has caused the formation of hydric soils and has favoured the dominance of either hydrophytic or water tolerant plants.

Establish-
ment of
programs

2.—(1) The Minister, subject to the approval of the Lieutenant Governor in Council, may establish programs to recognize, encourage and support the stewardship of conservation land.

Grants

(2) A program established under subsection (1) shall provide for the payment of grants in respect of such classes of conservation land as the Minister considers appropriate subject to such conditions precedent or subsequent as the Minister considers necessary.

Moneys

(3) The moneys required for the purposes of a program shall be paid out of the Consolidated Revenue Fund and, after the 31st day of March, 1989, out of the moneys appropriated therefor by the Legislature.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Conservation Land Act, 1987*.

Bill 68

(Chapter 41
Statutes of Ontario, 1988)

An Act to promote the Conservation of Certain Land

The Hon. V. Kerrio
Minister of Natural Resources



<i>1st Reading</i>	December 14th, 1987
<i>2nd Reading</i>	June 22nd, 1988
<i>3rd Reading</i>	June 29th, 1988
<i>Royal Assent</i>	June 29th, 1988

Bill 68**1987****An Act to promote the Conservation of Certain Land**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“areas of natural and scientific interest” means areas of land and water containing natural landscapes or features that have been identified by the Ministry of Natural Resources as having values related to protection, natural heritage appreciation, scientific study or education;

“conservation authority land” means land owned by a conservation authority;

“conservation land” includes wetland, areas of natural and scientific interest, land within the Niagara Escarpment Planning Area, conservation authority land and such other land owned by non-profit organizations that through their management contribute to provincial conservation and heritage program objectives;

“Minister” means the Minister of Natural Resources;

“Niagara Escarpment Planning Area” means the geographic area contained within the Niagara Escarpment Plan;

“wetland” means land,

- (a) that is seasonally or permanently covered by shallow water, or
- (b) in respect of which the water table is close to or at the surface,

so that the presence of abundant water has caused the formation of hydric soils and has favoured the dominance of either hydrophytic or water tolerant plants.

Establish-
ment of
programs

2.—(1) The Minister, subject to the approval of the Lieutenant Governor in Council, may establish programs to recognize, encourage and support the stewardship of conservation land.

Grants

(2) A program established under subsection (1) shall provide for the payment of grants in respect of such classes of conservation land as the Minister considers appropriate subject to such conditions precedent or subsequent as the Minister considers necessary.

Moneys

(3) The moneys required for the purposes of a program shall be paid out of the Consolidated Revenue Fund and, after the 31st day of March, 1989, out of the moneys appropriated therefor by the Legislature.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Conservation Land Act, 1988*.

Bill 69

An Act to amend the Education Act

The Hon. C. Ward
Minister of Education



1st Reading December 14th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1.—Subsection 1. The various amendments give the Minister additional powers and transfer certain powers previously provided for under the regulation-making powers in subsection 10 (3) of the Act.

The new clause (za) authorizes the Minister to make guidelines to ensure a standardization of the recording of information in records of pupils and is complementary to the amendment to subsection 237 (1) of the Act (see section 27 of the Bill).

The new clause (zb) is complementary to the amendment to subsection 48 (6) of the Act (see subsection 3 (1) of the Bill).

Clause (zc) is self-explanatory.

The new clause (zd) replaces and transfers to section 8 the powers set out in clause 10 (3) (d) of the Act, which is repealed (see subsection 2 (7) of the Bill).

Clause (ze) is self-explanatory (this is complementary to subsection 2 (6) of the Bill which amends clause 10 (3) (c) of the Act).

The new clause (zf) makes it clear that legislative grants may be paid from time to time as determined by the Minister.

The new clause (zg) is complementary to section 21 of the Bill.

Subsection 2. The amendment expands the number of items that the Minister may approve for the purposes of the payment of legislative grants.

SECTION 2.—Subsections 1 and 2. The amendment to paragraph 14 and the repeal of paragraphs 15 and 16 and the complementary amendment under subsection 2 (9) of the Bill brings together all the powers to make regulations in respect of the calculation, apportionment and distribution of the legislative grants. Paragraphs 14, 15 and 16 of subsection 10 (1) of the Act now read as follows:

14. *governing the establishment and operation of public and secondary schools on lands held by the Crown in right of Canada or Ontario or by an agency thereof, or on other lands that are exempt from taxation for school purposes, and providing for the payment of moneys to assist in the cost of establishment and maintenance of such schools;*
15. *governing the payment of the cost of education at elementary and secondary schools of pupils who,*
 - i. *reside in the territorial districts, or on lands held by the Crown in right of Canada or Ontario or by an agency thereof, or on other lands that are exempt from taxation for school purposes,*
 - ii. *are wards of or in the care of a children's aid society, or*
 - iii *are admitted to a centre, facility, home, hospital or institution that is approved, designated, established, licensed or registered under any Act;*
16. *providing for assistance in the payment of board, lodging and transportation costs of elementary and secondary school pupils.*

The new paragraph 15 governs examinations with respect to supervisory officers.

Subsection 3. The amendment enables The Metropolitan Toronto School Board to provide evening classes for its exceptional pupils who have attained or will attain, twenty-

one years of age and who are no longer eligible because of age to attend a school or class operated by the School Board.

Subsection 4. The amendment to clause 10 (3) (a) broadens the regulation-making powers in respect of the payment of legislative grants. Clause 10 (3) (a) now reads as follows:

- (a) providing for the apportionment and distribution of moneys appropriated or raised by the Legislature for educational purposes.*

Subsections 5 and 6. The amendment to subclause 10 (3) (c) (ii) expands the items that the Minister may approve for the purposes of providing funding assistance. The new subclauses (iii) and (iv) are complementary to the new clauses 8 (1) (zd) and (ze) (see subsection 1 (1) of the Bill). Subclause 10 (3) (c) (ii) now reads as follows:

- (ii) requiring the approval of the Minister to any amount of money, enrolment or rate used in determining the amount of such grants.*

Subsection 7. Clause 10 (3) (d) is repealed as being unnecessary. The factors are now to be provided by the Minister under the new clause 8 (1) (zd) of the Act (see subsection 1 (1) of the Bill). This regulation-making power has not been exercised since 1980.

Subsection 8. The amendment to clause 10 (3) (e) broadens the power to make regulations in respect of pupils for whom a fee is payable. Clause 10 (3) (e) now reads as follows:

- (e) prescribing the method of calculating the amount of the fee receivable by a board in respect of elementary or secondary school pupils or any class or group thereof, where the board provides education for one or more pupils in respect of whom a fee is payable under this Act, and defining any word or expression used in such regulation.*

Subsection 9. The new clauses transfer powers from the general regulation-making powers to the already existing regulation-making provisions that relate to the payment of legislative grants (see also subsections 2 (1) and (2) of the Bill) and adds a power to pay the cost of education in circumstances where Ontario pupils attend school in Manitoba or Quebec. The new clause (j) also provides for the possibility of payment to a board to offset the increase in the amount requisitioned for public or secondary school purposes or an increase in the mill rate for separate school purposes.

Subsection 10. The new subsection 10 (3a) enables regulations that are made with respect to fees and legislative grants to be applicable to all boards or to particular boards and enables the amount of any fee that may be charged by boards to be limited by regulation.

The new subsection 10 (10) permits regulations to be made that treat The Metropolitan Toronto School Board and the six area boards of education as one divisional board of education and the six area municipalities as one urban municipality.

SECTION 3. The amendments to subsection 48 (6) expand the exemptions from the requirement that boards charge maximum fees with respect to persons who are in Canada as a visitor or on a student visa. Subsection 48 (6) now reads as follows:

(6) Notwithstanding any other provision of this Act, where a board admits to a school that it operates, a person who is in Canada as a visitor or as a student under the Immigration Act, 1976 (Canada), except,

- (a) a participant in an educational exchange program under which a pupil of the board attends without fee a school outside Canada;*

- (b) *a pupil who enrolls in an elementary school or a secondary school prior to the 1st day of July, 1982; or*
- (c) *a person who is in Canada while his parent or the person who has lawful custody of him is in Canada on a work visa, a diplomatic visa or a ministerial permit,*

the board shall charge the person the maximum fee calculated in accordance with the regulations.

SECTIONS 4, 5, 6, 7, 8, 9, 10, 11 and 12. The various amendments enable school boards to be known by a French name in addition to or instead of its English name. A divisional board may also be known under a combined English and French name.

SECTION 13. The amendments to section 130 enable arbitrators appointed by a separate school board to recommend the method of apportionment that applies to divisional boards when setting the rates to be levied on ratepayers of the board and empowers the board to act upon the recommendations.

SECTION 14.—Subsection 1. The amendment to subsection 136e (2) makes it clear that conditions prescribed in regulations made by the Minister for the provision of legislative grants are in addition to conditions that apply to a Roman Catholic school board in the regulations made by the Lieutenant Governor in Council. Subsection 136e (2) of the Act now reads as follows:

(2) The payment of legislative grants to a Roman Catholic school board is subject to the conditions prescribed by the regulations.

Subsection 2. The new subsection 136e (5) enables conditions that are made with respect to the payment of grants to be applicable to all Roman Catholic school boards or to a particular board and provides that a grant may be withheld in whole or in part where a condition has not been complied with.

SECTION 15. The new subsection 136i (1a) makes it clear that trustees elected to a public board by separate school electors remain eligible to be members of the public board where the coterminous Roman Catholic separate school board has not extended.

SECTION 16. The amendment to section 145 is consistent with the other changes respecting board names (see sections 4, 5, 6, 7, 8, 9, 10, 11 and 12 of the Bill).

SECTION 17.—Subsections 1 and 2. The current provisions of the Act do not permit reserve funds to be invested in corporate securities, preferred and fully paid common shares of companies in which trustees may invest under section 27 of the *Trustee Act*.

The amendment ensures that paragraph 19 applies only to the reserve for working funds and enables reserve funds to be eligible for investment in trustee securities and in guaranteed contracts issued by an insurer licensed under the *Insurance Act*. Trustee securities include the securities mentioned in paragraph 19.

Subsection 3. The amendment to paragraph 38 of subsection 150 (1) enables a board to place a teacher in a demonstration school. Paragraph 38 of subsection 150 (1) now reads as follows:

- 38. *with the approval of the Minister, conduct an education program in a centre, facility, home, hospital or institution that is approved, designated, established, licensed or registered under any Act and in which the Ministry does not conduct an education program.*

Subsection 4. The amendment to subsection 150 (1) permits boards to classify expenditures for the purposes of grant assistance.

SECTION 18. The new section 150a enables boards that are named in Regional and District Municipality Acts and the *Municipality of Metropolitan Toronto Act* to have a French name. This is consistent with other changes respecting board names (see sections 4, 5, 6, 7, 8, 9, 10, 11, 12 and 16 of the Bill).

SECTION 19. The new paragraph 1a of section 154 enables boards to provide the same insured benefits for their members, their spouses and children, as the boards may provide for their employees.

SECTION 20. The amendment to subclause 155 (1) (a) (i) enables boards to provide group life insurance to the spouses and children of its employees.

SECTION 21. The new section 159a makes it clear that the transfer, with the approval of the Minister, of a secondary school or a French-language instructional unit operated under Part XI of the Act does not constitute a closing of the school by the board that transfers the school.

SECTION 22. The new subsection 165a (3) is consistent with the new clause 8 (1a) (b) (see subsection 1 (2) of the Bill).

SECTION 23. The amendments to subsection 166 (2) update terminology and restore the capability of boards to provide transportation to certain facilities that were excluded by changes made to the Act by the *Child and Family Services Act, 1984*. Subsection 166 (2) of the Act now reads as follows:

(2) A board may provide for a person who is qualified to be a resident pupil of the board, transportation to and from the Ontario School for the Blind, an Ontario School for the Deaf, a demonstration school established by or operated under an agreement with the Minister for pupils with severe learning disabilities, a centre classified as a Group K hospital under the Public Hospitals Act, a facility designated under the Developmental Services Act, a psychiatric facility designated as such under the Mental Health Act and premises approved under subsection 9 (1) of Part I (Flexible Services) of the Child and Family Services Act, 1984 for the provision of a child development service or child treatment service.

SECTION 24. The amendments enable a board to determine the allowances and additional allowances payable to members of the board and removes the restriction that applied heretofore that allowances were determined by the outgoing board for the new board to be elected.

SECTION 25. The amendment corrects an error in an internal reference.

SECTION 26. The amendment to subsection 217 (1) permits boards to borrow by way of banker's acceptances in addition to promissory notes and reduces the number of chartered banks that must be canvassed to determine lending rates from over sixty to eleven. Subsection 217 (1) of the Act now reads as follows:

(1) Notwithstanding the provisions of any general or special Act, a board may by resolution authorize the treasurer and the chairman or vice-chairman to borrow from time to time by way of a promissory note, such sums as the board considers necessary to meet the current expenditures of the board until the current revenue has been received, provided that the interest and any other charges connected therewith do not exceed the interest that would be payable at the minimum lending rate of the majority of chartered banks on the date of borrowing.

SECTION 27. The amendment to subsection 237 (1) is consistent with the new clause 8 (1) (za) of the Act (see subsection 1 (1) of the Bill). Subsection 237 (1) of the Act now reads as follows:

(1) In this section, except in subsection (12), "record" in respect of a pupil means a record maintained or retained by the principal of a school in accordance with the regulations.

SECTION 28. The new subsections enable two or more boards of education or two or more county or district combined separate school boards to share a director of education.

SECTION 29. The amendments make it clear that a member elected under Part IX-A of the Act is not subject to the same constraints on voting applicable to the separate school representatives elected to a board of education in an area where the coterminous Roman Catholic separate school board is not providing secondary school education.

SECTION 30. The amendments take into account the possibility of a public board ceasing to operate a school or classes under Part XI of the Act at the end of the calendar year as well as the end of the school year and provides a procedure for the dissolution of the French-language section of a board when the section ceases to operate any French-language instructional units.

SECTION 31.—Subsection 1. This amendment is complementary to the changes made in subsection 2. Clause 277t (2) (a) of the Act now reads as follows:

- (a) *a reference in this Part to French, other than in this subsection and subsection (3), shall be deemed to be a reference to English.*

Subsection 2. Subsection 277t (4) relates to English-language sections and is required for consistency with the changes in the case of French-language sections made to subsection 277m (7) (see section 29 of the Bill), in respect of the voting rights of members elected under Part XI-A of the Act.

SECTION 32. This section ensures that subsection 136i (3) of the *Education Act* (eligibility of separate school elector) applies to The Sault Ste. Marie Board of Education.

SECTION 33.—Subsection 1. Sub-subclauses 127 (1) (g) (v) (A) and (B) are amended to raise the limit upon the amounts to be included in the estimates of The Metropolitan Toronto School Board for certain capital expenditures to a sum equal to one mill on equalized assessment from the former limit of two mills on raw assessment. This brings the provision in line with the limits that apply to boards that have jurisdiction in more than one municipality or locality.

The reference to paragraph 33 of subsection 1 (1) of the *Education Act* is incorrect and is altered accordingly.

Reserves are mentioned in the new subclause (v). Heretofore only an indirect reference to reserves was mentioned in subsection 209 (10) of the Act.

Subclause 127 (1) (g) (v) of the *Municipality of Metropolitan Toronto Act* now reads as follows:

- (v) *may provide for expenditures to be made out of current funds for permanent improvements as defined in paragraph 34 of subsection 1 (1) of the Education Act, provided that the expenditures for permanent improvements referred to in subparagraphs 1, 2 and 3 of paragraph 33 of subsection 1 (1) of that Act do not exceed,*
 - (A) *for secondary school purposes, an amount that would increase the sum that would be required to be raised for such purposes by levy on assessment in the Metropolitan Area if no such provision for expenditures were made by an amount calculated at two mills in the dollar upon the total assessment in the Metropolitan Area, and*
 - (B) *for public school purposes, an amount that would increase the sum that would be required to be raised for such purposes by levy on assessment in the Metropolitan Area if no such provision for expenditures were made by an amount calculated at two mills in the dollar*

upon the assessment in the Metropolitan Area rateable for public school purposes,

according to the last revised assessment rolls.

Subsections 2 and 3. The amendments are complementary to the amendments to section 167 of the Act (see section 24 of the Bill).

Subsection 4. The definition of total equalized assessments of the area municipalities is complementary to the amendments to subclause 127 (1) (g) (v) (see subsection 33 (1) of the Bill).

SECTION 34. This section enables municipalities to apply certain moneys held by them for educational purposes to reduce the public school mill rate.

SECTION 35. This section enables a French-language education council to be dissolved other than in accordance with the provisions of section 277s of the Act where there are no known persons willing to serve on the council and the French-language instructional units of the public board have been transferred to a Roman Catholic school board and terminated by the public board.

Bill 69**1987****An Act to amend the Education Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 8 (1) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1982, chapter 32, section 3 and 1984, chapter 60, section 2, is further amended by adding thereto the following clauses:

- (za) issue guidelines respecting the keeping of pupil records and require boards to comply with the guidelines;
- (zb) approve awards for the purpose of subclause 48 (6) (f) (ii);
- (zc) require boards to establish and maintain a policy of affirmative action with respect to the employment and promotion of women;
- (zd) provide an assessment equalization factor,
 - (i) for each municipality, including, for public and secondary school purposes, any part of territory without municipal organization that is deemed to be attached thereto for such purposes and, for public school purposes, any part of territory without municipal organization that is deemed to be annexed thereto for public school purposes,
 - (ii) for each locality,
 - (iii) for each public school section that comprises only territory without municipal organization, and

- (iv) for each separate school zone that comprises only territory without municipal organization, and determine the assessment roll to which each such factor applies;
- (ze) provide interim and final weighting and adjustment factors for the purposes of the regulations;
- (zf) prescribe the number of instalments in which payments of legislative grants shall be paid to boards, the dates upon which the payments shall be made and the amounts of the payments as a percentage of the total amount estimated by the Minister to be payable to the boards;
- (zg) approve the entering into of an agreement by boards under subsection 159a (1).

(2) Section 8 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 3 and 1984, chapter 60, section 2, is further amended by adding thereto the following subsection:

Additional
powers of
Minister

(1a) The Minister may, for the purposes of the calculation and payment of legislative grants,

- (a) approve classes, courses and programs;
- (b) approve adult basic education as defined in subsection 165a (1) provided for boards by,
 - (i) colleges of applied arts and technology, and
 - (ii) community groups; and
- (c) prescribe the standards that shall be attained by a community group in respect of the provision of adult basic education under subsection 165 (3) and the criteria that shall be used to determine whether the standards are attainable.

2.—(1) Paragraph 14 of subsection 10 (1) of the said Act is amended by striking out “and providing for the payment of moneys to assist in the cost of establishment and maintenance of such schools” in the fifth, sixth and seventh lines.

(2) Paragraphs 15 and 16 of the said subsection 10 (1) are repealed and the following substituted therefor:

15. providing for the holding of examinations for persons to become supervisory officers and governing such examinations. supervisory officers, examinations

(3) Section 10 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 4 and 1984, chapter 64, section 12, is further amended by adding thereto the following subsection:

(2) The Metropolitan Toronto School Board may, subject to the regulations in respect of evening classes, provide during the school day or outside the school day a program for adults, who by reason of age do not have the right to attend a school or class operated by the School Board for exceptional pupils whose intellectual functioning is below that of a person with mild retardation and, Provision of evening classes by The Metropolitan Toronto School Board

- (a) are otherwise qualified to be resident pupils of a board of education that has jurisdiction in The Municipality of Metropolitan Toronto; or
- (b) not being qualified to be resident pupils as mentioned in clause (a), were pupils in such a school or class operated by the School Board.

(4) Clause 10 (3) (a) of the said Act is amended by striking out “providing for” in the first line and inserting in lieu thereof “governing”.

(5) Subclause 10 (3) (c) (ii) of the said Act is amended by inserting after “enrolment” in the second line “portion, number, estimate, facility, unit, project”.

(6) Clause 10 (3) (c) of the said Act is amended by striking out “and” at the end of subclause (iii) and by adding thereto the following subclauses:

- (v) applying factors in the calculation of the grants, and
- (vi) authorizing the Minister to adjust amounts of assessment.

(7) Clause 10 (3) (d) of the said Act is repealed.

(8) Clause 10 (3) (e) of the said Act is amended by striking out “calculating” in the first line and inserting in lieu thereof “determining”.

(9) Subsection 10 (3) of the said Act is amended by adding thereto the following clauses:

- (g) providing for the payment of moneys to assist in the cost of the establishment and maintenance of schools referred to in paragraph 14 of subsection (1);
- (h) providing for assistance in the payment of board, lodging and transportation costs of elementary and secondary school pupils;
- (i) governing the provision of assistance for the payment of the cost of education of pupils who,
 - (i) reside in the territorial districts, on lands held by the Crown in right of Canada or Ontario or by an agency of Canada or Ontario or on other lands that are exempt from taxation for school purposes,
 - (ii) are qualified to be resident pupils in respect of a school section, separate school zone or secondary school district in Ontario and receive elementary or secondary education in Manitoba or Quebec, as the case may be, where, in the opinion of the Minister, daily transportation to a school in Ontario or the provision of board, lodging and transportation to and from a school in Ontario once a week is impracticable,
 - (iii) are wards of or in care of a children's aid society, or
 - (iv) are admitted to a centre, facility, home, hospital or institution that is approved, designated, established, licensed or registered under any Act;
- (j) providing for payments to a board for the purpose of limiting in a year the amount of the requisition for public or secondary school purposes or the increase in the mill rate for separate school purposes in respect of,
 - (i) a municipality or part thereof, or

- (ii) a part of territory without municipal organization that is deemed to be a district municipality,

under the jurisdiction of the board.

(10) Section 10 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 4, 1984, chapter 60, section 4 and 1986, chapter 64, section 12, is further amended by adding thereto the following subsections:

- (3a) A regulation made under subsection (3) may, Idem
 - (a) be general or particular in its application;
 - (b) with respect to clause (3) (e), prescribe the maximum amount of any fee that may be charged; or
 - (c) with respect to clause (3) (e), provide for the determination of fees by boards.

.

(10) A regulation made under this section that applies to Idem
The Metropolitan Toronto School Board may,

- (a) deem The Metropolitan Toronto School Board and the boards of education in The Municipality of Metropolitan Toronto to be one divisional board of education; and
- (b) deem the area municipalities in The Municipality of Metropolitan Toronto to be one urban municipality.

3. Subsection 48 (6) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 32, section 12, is amended by,

- (a) striking out “or” at the end of clause (b);
- (b) striking out “a diplomatic visa” in the third line of clause (c) and inserting in lieu thereof “an employment authorization”; and
- (c) adding thereto the following clauses:
- (d) a pupil who is a dependant within the meaning of the *Visiting Forces Act* (Canada);

- (e) a person who is in Canada under a diplomatic, consular or official acceptance issued by the Department of External Affairs; or
- (f) a person who is in Canada while the person's parent or the person who has lawful custody of the person is in Canada,
 - (i) under a diplomatic, consular or official acceptance issued by the Department of External Affairs,
 - (ii) as a graduate student who is the recipient of an award approved by the Minister for the purposes of this clause and who is in attendance at a university or institution in Ontario, including its affiliated or federated institutions, that receives operating grants from the Ministry of Colleges and Universities, or
 - (iii) in accordance with an agreement with a university outside Canada to teach at an institution in Ontario, including its affiliated or federated institutions, that receives operating grants from the Ministry of Colleges and Universities,

4.—(1) Subsection 54 (1) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 15, is further amended by adding thereto the following clause:

- (b) assign a name to a divisional board that has jurisdiction in a territorial district.

(2) Subsection 54 (4) of the said Act is amended by inserting after "City of" " " in the third and fourth lines "or "Conseil de l'éducation de la cité de" or both".

(3) Subsection 54 (5) of the said Act is amended by inserting after "Education" " " in the third line "or "Conseil de l'éducation du comté de" or both".

(4) Subsection 54 (6) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 15, is further amended by inserting after "Education" " " in the seventh line "or "Conseil de l'éducation de" or both".

(5) Subsection 54 (7) of the said Act is amended by inserting after “Education” ” in the third line “or “Conseil de l’éducation de” or both”.

(6) Section 54 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 15, is further amended by adding thereto the following subsection:

(8) The name of a divisional board may be as follows where Bilingual
approved by the Minister:

“Conseil de l’éducation de Board of
Education” (*inserting the name of the
defined city, county or name approved by
the Minister or assigned by the regulations*).

5.—(1) Subsection 60 (3) of the said Act is amended by inserting after “of” ” in the third line “or “Conseil de l’éducation de” or both”.

(2) Subsection 60 (4) of the said Act is amended by inserting after “Education” ” in the third line “or “Conseil de l’éducation de” or both”.

6. Subsection 62 (5) of the said Act is amended by inserting after “Board” ” in the third line “or “Conseil du secteur scolaire de district de” or both”.

7.—(1) Clause 83 (5) (a) of the said Act is amended by inserting after “Board” ” in the second line “or “Conseil des écoles séparées catholiques de” or both”.

(2) Clause 83 (5) (b) of the said Act is amended by inserting after “Board” ” in the third line “or “Conseil des écoles séparées catholiques de” or both”.

8. Subsection 84 (2) of the said Act is amended by inserting after “Board” ” in the fifth line “or “Conseil des écoles séparées catholiques de” or both”.

9. Subsection 87 (4) of the said Act is amended by inserting after “Board” ” in the third line “or “Conseil fusionné des écoles séparées catholiques de” or both”.

10.—(1) Subsection 111 (1) of the said Act is amended by inserting after “Board” ” in the fourth line “or “Conseil des écoles séparées catholiques du comté de” or both”.

(2) Subsection 111 (2) of the said Act is amended by inserting after "Board" " " in the fifth line "or "Conseil des écoles séparées catholiques du comté de " or both".

(3) Subsection 111 (3) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 35, is further amended by inserting after "Board" " " in the amendment of 1982 "or "Conseil des écoles séparées catholiques du district de " or both".

(4) Subsection 111 (4) of the said Act is amended by,

- (a) striking out "117 and 118" in the second line and inserting in lieu thereof "116 and 117"; and
- (b) inserting after "Board" " " in the fifth line "or "Conseil des écoles séparées catholiques de " or both".

(5) Section 111 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 35, is further amended by adding thereto the following subsection:

Bilingual

(5) The name of a county or district combined separate school board may be as follows where approved by the Minister:

"Conseil des écoles séparées catholiques de de (County or District) Roman Catholic Separate School Board" (*inserting the name of the county or counties, district or districts, name selected by the board and approved by the Minister or name of area designated by the regulations*).

11. Subsection 116 (2) of the said Act is amended by inserting after "Board" " " in the third line "in English and "Conseil des écoles séparées catholiques d'Ottawa" in French".

12. Subsection 117 (2) of the said Act is amended by inserting after "Board" " " in the third line "in English and "Conseil des écoles séparées catholiques de Carleton" in French".

13. Section 130 of the said Act, as amended by the Statutes of Ontario, 1987, chapter 17, section 3, is further amended by adding thereto the following subsections:

(5a) Where the arbitrators conclude that it would be more just and equitable in the interests of the supporters of the board for the board when setting the rates to be levied in a

year to have apportioned its requirements in accordance with a regulation made under section 214 in respect of the year, the arbitrators shall so advise the board when they have determined and reported the factors under subsection (5).

(5b) After being advised under subsection (5a), the board may resolve to apportion its requirements in accordance with the regulation that applies for the year. Resolution of board

(5c) A board that resolves to apportion under subsection (5b) shall forthwith notify the Minister of its decision. Notice

(5d) The arbitration referred to in section 214 does not apply in the case of a board that acts under subsection (5b). Non-application

14.—(1) Subsection 136e (2) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, is amended by inserting after “to” in the second line “in addition to conditions that may be made under clause 10 (3) (b)”.

(2) Section 136e of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, is amended by adding thereto the following subsection:

- (5) A regulation made for the purposes of this section, Regulations
- (a) may be general or particular in its application; or
 - (b) may provide for the withholding or repayment of all or part of a grant where a condition of the grant is not satisfied.

15. Section 136i of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, is amended by adding thereto the following subsection:

(1a) Subsection (1) does not apply where a public board has the same or part of the same area of jurisdiction as a Roman Catholic school board as a result only of the fact that the centre of a separate school zone that, Idem

- (a) comprises part of the county or district combined Roman Catholic separate school zone for which the Roman Catholic school board was established; and
- (b) is not situate within the area of jurisdiction of the public board,

and is situate within 4.8 kilometres of the boundary of the public board.

16. Section 145 of the said Act is amended by inserting after “the ...” in the third line “or “Conseil des écoles séparées protestantes de ...” or both”.

17.—(1) Paragraph 19 of subsection 150 (1) of the said Act is amended by inserting after “moneys” in the first line “other than moneys held in a reserve fund and that are”.

(2) Subsection 150 (1) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 40 and 1984, chapter 60, section 10, is further amended by adding thereto the following paragraph:

idem

19a. invest moneys held in a reserve fund in,

R.S.O. 1980,
c. 218

i. guaranteed contracts issued by an insurer licensed under the *Insurance Act*, and

R.S.O. 1980,
c. 512

ii. such securities as a trustee may invest in under the *Trustee Act* provided that all interest and gain thereon is credited to the fund from which the moneys are invested.

(3) Paragraph 38 of subsection 150 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 60, section 10, is amended by adding at the end thereof “or a demonstration school for exceptional pupils”.

(4) Subsection 150 (1) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 40 and 1984, chapter 60, section 10, is further amended by adding thereto the following paragraph:

designation
of expen-
ditures

46. designate portions of current expenditure of the board as ordinary expenditures for the purposes of legislative grants provided for by a regulation made under subsection 10 (3).

18. The said Act is amended by adding thereto the following section:

Board name

150a. Where in any Act, other than this Act, a board is given a name in English, the board shall be known by such name in French as the board may by resolution select and the Minister may approve.

19. Section 154 of the said Act is amended by adding thereto the following paragraph:

- 1a. provide for any or all of the members of the board any benefit that may be provided for the employees of the board under section 155 and any other benefits of a like nature that the board considers appropriate.

20. Subclause 155 (1) (a) (i) of the said Act is amended by adding at the end thereof “and their spouses and children”.

21. The said Act is further amended by adding thereto the following section:

159a.—(1) A public board that has jurisdiction in an area that is also the area or part of the area of jurisdiction of a Roman Catholic school board may, with the approval of the Minister, enter into an agreement with the Roman Catholic school board to transfer a secondary school established and operated under Part XI or a French-language instructional unit as defined in section 277c to the Roman Catholic school board.

(2) A transfer of a secondary school referred to in subsection (1) is not a closing of the secondary school.

22. Section 165a of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 32, section 45, is amended by adding thereto the following subsection:

(3) A board may, in respect of persons who reside in the area of jurisdiction of the board, enter into an agreement in writing with a community group for the provision by the group of adult basic education that is approved by the Minister.

23. Subsection 166 (2) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 55, section 216, is further amended by,

- (a) striking out “severe learning disabilities” in the fifth line and inserting in lieu thereof “severe communicational exceptionalities”; and
- (b) striking out “premises approved under subsection 9 (1) of Part I (Flexible Services) of the *Child and Family Services Act, 1984* for the provision of a child development service or child treatment service” in the amendment of 1984 and inserting in lieu thereof “a place where an agency approved under subsection 8 (1) of Part I (Flexible Services) of the *Child and Family Services Act, 1984* provides a child devel-

opment service, a child treatment service or a child and family intervention service”.

24. Subsection 167 (1), as re-enacted by the Statutes of Ontario, 1982, chapter 32, section 47, subsections (1a), (1b) and (1c), as enacted by the Statutes of Ontario, 1982, chapter 32, section 47, and subsection (2), as re-enacted by the Statutes of Ontario, 1982, chapter 32, section 47, of the said Act are repealed and the following substituted therefor:

Allowance
for members

(1) A board may pay to each member of the board an allowance in such amount that is determined by the board to be payable to the members thereof.

Chairman
and vice-
chairman

(2) A board may pay an allowance in such amount as is determined by the board in addition to the allowance payable under subsection (1) to the chairman and vice-chairman of the board.

Different
allowances

(2a) The additional allowance payable to the chairman may differ from the additional allowance payable to the vice-chairman.

Basis of
allowance

(2b) A member of a board of education elected by separate school electors, a member of the board elected under Part XI-A or XI-B and a member appointed to the board is entitled to an allowance on the same basis as a member of the board elected by public school electors.

Idem

(2c) A trustee of a separate school board elected under Part XI-A or XI-B or appointed to the board is entitled to an allowance on the same basis as a trustee who is elected other than under Part XI-A or XI-B by separate school electors.

Decrease in
allowance

(2d) A board may at any time decrease any allowance payable to members, the chairman or the vice-chairman of the board.

Chairman
and vice-
chairman of
council or
section

(2e) Where the French-language education council, English-language education council, French-language section or English-language section of a board has a chairman or a vice-chairman of the council or section, as the case may be, the council or section may authorize an additional allowance, not to exceed that paid to the chairman or vice-chairman of the board under subsection (2), to be paid to the chairman or vice-chairman of the council or section.

Idem

(2f) A chairman or vice-chairman of a council or section may only be paid one additional allowance.

(2g) An allowance payable under subsection (1), (2) or (2e) with respect to a French-language education council or French-language section shall be included as part of centralized services for the purposes of allocating amounts under section 277n. Allocation of cost

25. Subsection 196 (1a) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 32, section 53, is amended by striking out “subsection (2)” in the eleventh line and inserting in lieu thereof “subsection (3)”.

26. Subsection 217 (1) of the said Act is amended by,

- (a) adding after “note” in the fourth line “or a banker’s acceptance that is drawn as a bill of exchange under the *Bills of Exchange Act* (Canada) on a bank to which the *Bank Act* (Canada) applies”; and
- (b) striking out “minimum lending rate of the majority of chartered banks on the date of borrowing” in the ninth and tenth lines and inserting in lieu thereof “prime lending rate on the date of borrowing, of the chartered banks listed in Schedule A of the *Bank Act* (Canada)”.

27. Subsection 237 (1) of the said Act is amended by adding at the end thereof “and the guidelines issued by the Minister”.

28. Section 252 of the said Act is amended by adding thereto the following subsections:

(2) Two or more boards of education that each have an enrolment in its public and secondary schools of fewer than 2,000 may with the approval of the Minister agree to appoint a supervisory officer as director of education to be responsible to the boards for the development, implementation, operation and supervision of educational programs in the schools of the boards. Idem

(3) Two or more county or district combined separate school boards that each have an enrolment in its schools of fewer than 2,000 may with the approval of the Minister agree to appoint a supervisory officer as director of education to be responsible to the boards for the development, implementation, operation and supervision of educational programs in the schools of the boards. Idem

29. Section 277m of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is amended by adding thereto the following subsections:

French as
minority

(7) Where a member of a French-language section of a board of education to which section 136i does not apply is elected by electors who may be separate school electors or public school electors, the provisions of subsection 55 (4) do not apply to prevent the member from moving, seconding or voting upon a matter that affects French-language public schools exclusively regardless of whether the member is a separate school elector or a public school elector.

Idem

(8) Subsection (7) applies with necessary modifications to a member appointed to fill a vacancy on a French-language section of a board referred to in subsection (7).

30. Subsections 277s (1), (2) and (3) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, are repealed and the following substituted therefor:

Notice to
Minister

(1) Where a French-language section becomes aware that it will not be operating a French-language instructional unit and it will not be providing education for at least 285 resident pupils of the board or at least 9.50 per cent of the resident pupils of the board pursuant to an agreement as described in subsection 277d (2) or (3), the French-language section shall forthwith notify in writing the full board of such fact and the effective date thereof and the board shall forthwith notify in writing the Minister.

Dissolution

(2) Unless the notice to the Minister under subsection (1) is revoked, the French-language section of a board in respect of which a notice is required to be given to the Minister is dissolved on the thirtieth day next following the date upon which the section ceases to operate a unit or provide the education referred to in subsection (1) and the members shall cease to hold office on that date.

Revocation
of notice

(3) A board, upon written request of the French-language section of the board that is received before the dissolution of the French-language section of the board, shall revoke by notice in writing delivered to the Minister, a notice given to the Minister under subsection (1).

Section 159a
agreement
distinguished

(3a) Where a public board agrees to transfer a secondary school established and operated under Part XI to a Roman Catholic school board under section 159a, the agreement to transfer is not an agreement referred to in subsections 277d (2) and (3).

31.—(1) Clause 277t (2) (a) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is

amended by striking out “subsection (3)” in the second line and inserting in lieu thereof “subsections (3) and (4)”.

(2) Section 277t of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is amended by adding thereto the following subsections:

(4) In the case of a board to which subsection (3) applies ^{Idem} and section 136i does not apply, a member of the board who is not a member of the English-language section of the board may move, second and vote upon a matter that affects French-language public schools exclusively regardless of whether the member is a separate school elector or a public school elector.

(5) Subsection (4) applies with necessary modifications to a ^{Idem} member appointed to fill a vacancy on an English-language section of a board referred to in subsection (4).

32. Section 3 of *The City of Sault Ste. Marie Act, 1977*, being chapter 103, in so far as it may be inconsistent with subsection 136i (3) of the *Education Act* is of no force and effect.

33.—(1) Subclause 127 (1) (g) (v) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(v) may provide for expenditures for permanent improvements as defined in paragraph 34 of subsection 1 (1) of the *Education Act* and for an allocation to a reserve fund, provided that the total of expenditures for permanent improvements referred to in subparagraphs i, ii and iii of paragraph 34 of subsection 1 (1) of that Act and any sum allocated to a reserve fund do not exceed,

R.S.O. 1980,
c. 129

(A) for secondary school purposes, an amount that would increase the sum that would be required to be raised by levy for secondary school purposes in the Metropolitan Area if no such provision for expenditures and allocation were made, by an amount calculated at one mill of the dollar upon the total equalized assessments of the area municipalities for public secondary school purposes, and

- (B) for public school purposes, an amount that would increase the sum that would be required to be raised by levy for public school purposes in the Metropolitan Area if no such provision for expenditures and allocation were made, by an amount calculated at one mill in the dollar upon the total equalized assessments of the area municipalities for public elementary school purposes.

(2) Subsection 127 (1b) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 6, is repealed and the following substituted therefor:

Allowance to
vice-chairman

(1b) The School Board may pay an allowance in such amount as is determined by the School Board in addition to the allowance payable under clause (1a) (a) or (b) to the vice-chairman of the School Board.

Different
allowances

(1ba) An allowance payable to the chairman may differ from that payable to the vice-chairman.

(3) Subsection 127 (1c) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 6, is amended by inserting after "subsection (1a)" in the second line "or (1b)".

(4) Subsection 127 (7) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 6 and amended by the Statutes of Ontario, 1984, chapter 10, section 1, is further amended by adding thereto the following clause:

- (ba) "total equalized assessments of the area municipalities" means for public secondary school purposes and for public elementary school purposes the sum of the assessment upon which taxes are levied for such purposes in each area municipality in the year for which the estimates are approved in whole or in part by the School Board where the assessment of each area municipality is adjusted by the application of the latest equalization factor applicable thereto that is provided by the Minister.

Reserve fund
for public
school
purposes,
application
in 1988

34. Moneys that were held by a municipality as of the 31st day of December, 1986 and are still being held and were derived from the Ontario Municipalities Fund or from any other source for public school purposes, except the collection of rates, shall be applied by the municipality in the year 1988 to reduce the rate that would otherwise be required to be levied for public school purposes in the municipality.

35.—(1) Where a public board has,

- (a) transferred a secondary school established and operated under Part XI of the *Education Act* to a Roman Catholic school board;
- (b) conducted an election referred to in subsection 277x (6) of the said Act and no members were elected;
- (c) advised the Minister that there are no qualified persons willing to be appointed under subsection 277x (10) of the said Act; and
- (d) resolved to discontinue the operation of its remaining French-language instructional units at the end of the school year in which the election referred to in clause (b) was conducted,

Dissolution
of French-
language edu-
cation council
R.S.O. 1980,
c. 129

the resolution referred to in clause (d) shall, with the approval of the Minister, become effective in accordance with the terms of the resolution and the French-language education council constituted under subsection 277y (1) is dissolved on the date determined by the Minister.

(2) In this section,

Definitions

“French-language instructional unit” has the same meaning as in section 277c of the said Act;

“Minister”, “public board”, “secondary school” and “Roman Catholic school board” have the same meaning as in section 1 of the said Act.

36. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

37. The short title of this Act is the *Education Amendment Act, 1987*.

Short title

Bill 69

An Act to amend the Education Act

The Hon. C. Ward
Minister of Education



1st Reading December 14th, 1987
2nd Reading January 11th, 1989
3rd Reading
Royal Assent

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1.—Subsection 1. The various amendments give the Minister additional powers and transfer certain powers previously provided for under the regulation-making powers in subsection 10 (3) of the Act.

The new clause (za) authorizes the Minister to make guidelines to ensure a standardization of the recording of information in records of pupils and is complementary to the amendment to subsection 237 (1) of the Act (see section 27 of the Bill).

The new clause (zb) is complementary to the amendment to subsection 48 (6) of the Act (see section 3 of the Bill).

Clause (zc) is self-explanatory.

The new clause (zd) transfers to section 8 the powers set out in clause 10 (3) (d) of the Act.

Clause (ze) is self-explanatory (this is complementary to subsection 2 (6) of the Bill which amends clause 10 (3) (c) of the Act).

The new clause (zf) makes it clear that legislative grants may be paid from time to time as determined by the Minister.

The new clause (zg) is complementary to section 21 of the Bill.

Subsection 2. The amendment expands the number of items that the Minister may approve for the purposes of the payment of legislative grants.

SECTION 2.—Subsections 1 and 2. The amendment to paragraph 14 and the repeal of paragraphs 15 and 16 and the complementary amendment under subsection 2 (8) of the Bill brings together all the powers to make regulations in respect of the calculation, apportionment and distribution of the legislative grants. Paragraphs 14, 15 and 16 of subsection 10 (1) of the Act now read as follows:

14. *governing the establishment and operation of public and secondary schools on lands held by the Crown in right of Canada or Ontario or by an agency thereof, or on other lands that are exempt from taxation for school purposes, and providing for the payment of moneys to assist in the cost of establishment and maintenance of such schools;*
15. *governing the payment of the cost of education at elementary and secondary schools of pupils who,*
 - i. *reside in the territorial districts, or on lands held by the Crown in right of Canada or Ontario or by an agency thereof, or on other lands that are exempt from taxation for school purposes,*
 - ii. *are wards of or in the care of a children's aid society, or*
 - iii *are admitted to a centre, facility, home, hospital or institution that is approved, designated, established, licensed or registered under any Act;*
16. *providing for assistance in the payment of board, lodging and transportation costs of elementary and secondary school pupils.*

The new paragraph 15 governs examinations with respect to supervisory officers.

Subsection 3. The amendment enables The Metropolitan Toronto School Board to provide evening classes for its exceptional pupils who have attained or will attain, twenty-

one years of age and who are no longer eligible because of age to attend a school or class operated by the School Board.

Subsection 4. The amendment to clause 10 (3) (a) broadens the regulation-making powers in respect of the payment of legislative grants. Clause 10 (3) (a) now reads as follows:

- (a) *providing for the apportionment and distribution of moneys appropriated or raised by the Legislature for educational purposes.*

Subsections 5 and 6. The amendment to subclause 10 (3) (c) (ii) expands the items that the Minister may approve for the purposes of providing funding assistance. The new subclauses (iii) and (iv) are complementary to the new clauses 8 (1) (zd) and (ze) (see subsection 1 (1) of the Bill). Subclause 10 (3) (c) (ii) now reads as follows:

- (ii) *requiring the approval of the Minister to any amount of money, enrolment or rate used in determining the amount of such grants.*

Subsection 7. The amendment to clause 10 (3) (e) broadens the power to make regulations in respect of pupils for whom a fee is payable. Clause 10 (3) (e) now reads as follows:

- (e) *prescribing the method of calculating the amount of the fee receivable by a board in respect of elementary or secondary school pupils or any class or group thereof, where the board provides education for one or more pupils in respect of whom a fee is payable under this Act, and defining any word or expression used in such regulation.*

Subsection 8. The new clauses transfer powers from the general regulation-making powers to the already existing regulation-making provisions that relate to the payment of legislative grants (see also subsections 2 (1) and (2) of the Bill) and adds a power to pay the cost of education in circumstances where Ontario pupils attend school in Manitoba or Quebec. The new clause (j) also provides for the possibility of payment to a board to offset the increase in the amount requisitioned for public or secondary school purposes or an increase in the mill rate for separate school purposes.

Subsection 9. The new subsection 10 (3a) enables regulations that are made with respect to fees and legislative grants to be applicable to all boards or to particular boards and enables the amount of any fee that may be charged by boards to be limited by regulation.

The new subsection 10 (12) permits regulations to be made that treat The Metropolitan Toronto School Board and the six area boards of education as one divisional board of education and the six area municipalities as one urban municipality.

SECTION 3. The re-enactment of subsection 48 (6) expands the exemptions from the requirement that boards charge maximum fees with respect to persons who are in Canada as a visitor or on a student visa. Subsection 48 (6) now reads as follows:

(6) *Notwithstanding any other provision of this Act, where a board admits to a school that it operates, a person who is in Canada as a visitor or as a student under the Immigration Act, 1976 (Canada), except,*

- (a) *a participant in an educational exchange program under which a pupil of the board attends without fee a school outside Canada;*
- (b) *a pupil who enrolls in an elementary school or a secondary school prior to the 1st day of July, 1982; or*

- (c) *a person who is in Canada while his parent or the person who has lawful custody of him is in Canada on a work visa, a diplomatic visa or a ministerial permit,*

the board shall charge the person the maximum fee calculated in accordance with the regulations.

SECTIONS 4, 5, 6, 7, 8, 9, 10, 11 and 12. The various amendments enable school boards to be known by a French name in addition to or instead of its English name. A divisional board may also be known under a combined English and French name.

SECTION 13. The amendments to section 130 enable arbitrators appointed by a separate school board to recommend the method of apportionment that applies to divisional boards when setting the rates to be levied on ratepayers of the board and empowers the board to act upon the recommendations.

SECTION 14.—Subsection 1. The amendment to subsection 136e (2) makes it clear that conditions prescribed in regulations made by the Minister for the provision of legislative grants are in addition to conditions that apply to a Roman Catholic school board in the regulations made by the Lieutenant Governor in Council. Subsection 136e (2) of the Act now reads as follows:

(2) The payment of legislative grants to a Roman Catholic school board is subject to the conditions prescribed by the regulations.

Subsection 2. The new subsection 136e (5) enables conditions that are made with respect to the payment of grants to be applicable to all Roman Catholic school boards or to a particular board and provides that a grant may be withheld in whole or in part where a condition has not been complied with.

SECTION 15. The new subsection 136i (1a) makes it clear that trustees elected to a public board by separate school electors remain eligible to be members of the public board where the coterminous Roman Catholic separate school board has not extended.

SECTION 16. The amendment to section 145 is consistent with the other changes respecting board names (see sections 4, 5, 6, 7, 8, 9, 10, 11 and 12 of the Bill).

SECTION 17.—Subsections 1 and 2. The current provisions of the Act do not permit reserve funds to be invested in corporate securities, preferred and fully paid common shares of companies in which trustees may invest under section 27 of the *Trustee Act*.

The amendment ensures that paragraph 19 applies only to the reserve for working funds and enables reserve funds to be eligible for investment in trustee securities and in guaranteed contracts issued by an insurer licensed under the *Insurance Act*. Trustee securities include the securities mentioned in paragraph 19.

Subsection 3. The amendment to paragraph 38 of subsection 150 (1) enables a board to place a teacher in a demonstration school. Paragraph 38 of subsection 150 (1) now reads as follows:

38. *with the approval of the Minister, conduct an education program in a centre, facility, home, hospital or institution that is approved, designated, established, licensed or registered under any Act and in which the Ministry does not conduct an education program.*

Subsection 4. The amendment to subsection 150 (1) permits boards to classify expenditures for the purposes of grant assistance.

SECTION 18. The new section 150a enables boards that are named in Regional and District Municipality Acts and the *Municipality of Metropolitan Toronto Act* to have a

French name. This is consistent with other changes respecting board names (see sections 4, 5, 6, 7, 8, 9, 10, 11, 12 and 16 of the Bill).

SECTION 19. The new paragraph 1a of section 154 enables boards to provide the same insured benefits for their members, their spouses and children, as the boards may provide for their employees.

SECTION 20. The amendment to subclause 155 (1) (a) (i) enables boards to provide group life insurance to the spouses and children of its employees.

SECTION 21. The new section 159a makes it clear that the transfer, with the approval of the Minister, of a secondary school or a French-language instructional unit operated under Part XI of the Act does not constitute a closing of the school by the board that transfers the school.

SECTION 22. The new subsection 165a (3) is consistent with the new clause 8 (1a) (b) (see subsection 1 (2) of the Bill).

SECTION 23. The amendments to subsection 166 (2) update terminology and restore the capability of boards to provide transportation to certain facilities that were excluded by changes made to the Act by the *Child and Family Services Act, 1984*. Subsection 166 (2) of the Act now reads as follows:

(2) A board may provide for a person who is qualified to be a resident pupil of the board, transportation to and from the Ontario School for the Blind, an Ontario School for the Deaf, a demonstration school established by or operated under an agreement with the Minister for pupils with severe learning disabilities, a centre classified as a Group K hospital under the Public Hospitals Act, a facility designated under the Developmental Services Act, a psychiatric facility designated as such under the Mental Health Act and premises approved under subsection 9 (1) of Part I (Flexible Services) of the Child and Family Services Act, 1984 for the provision of a child development service or child treatment service.

SECTION 24. The amendments enable a board to determine the allowances and additional allowances payable to members of the board and removes the restriction that applied heretofore that allowances were determined by the outgoing board for the new board to be elected.

SECTION 25. The amendment corrects an error in an internal reference.

SECTION 26. The amendment to subsection 217 (1) permits boards to borrow by way of banker's acceptances in addition to promissory notes and reduces the number of chartered banks that must be canvassed to determine lending rates from over sixty to eleven. Subsection 217 (1) of the Act now reads as follows:

(1) Notwithstanding the provisions of any general or special Act, a board may by resolution authorize the treasurer and the chairman or vice-chairman to borrow from time to time by way of a promissory note, such sums as the board considers necessary to meet the current expenditures of the board until the current revenue has been received, provided that the interest and any other charges connected therewith do not exceed the interest that would be payable at the minimum lending rate of the majority of chartered banks on the date of borrowing.

SECTION 27. The amendment to subsection 237 (1) is consistent with the new clause 8 (1) (za) of the Act (see subsection 1 (1) of the Bill). Subsection 237 (1) of the Act now reads as follows:

(1) In this section, except in subsection (12), "record" in respect of a pupil means a record maintained or retained by the principal of a school in accordance with the regulations.

SECTION 28. The new subsections enable two or more boards of education or two or more county or district combined separate school boards to share a director of education.

■ **SECTION 29.** The amendments take into account the possibility of a public board ceasing to operate a school or classes under Part XI of the Act at the end of the calendar year as well as the end of the school year and provides a procedure for the dissolution of the French-language section of a board when the section ceases to operate any French-language instructional units.

■ **SECTION 30.—Subsection 1.** Sub-subclauses 127 (1) (g) (v) (A) and (B) are amended to raise the limit upon the amounts to be included in the estimates of The Metropolitan Toronto School Board for certain capital expenditures to a sum equal to one mill on equalized assessment from the former limit of two mills on raw assessment. This brings the provision in line with the limits that apply to boards that have jurisdiction in more than one municipality or locality.

The reference to paragraph 33 of subsection 1 (1) of the *Education Act* is incorrect and is altered accordingly.

Reserves are mentioned in the new subclause (v). Heretofore only an indirect reference to reserves was mentioned in subsection 209 (10) of the Act.

Subclause 127 (1) (g) (v) of the *Municipality of Metropolitan Toronto Act* now reads as follows:

(v) *may provide for expenditures to be made out of current funds for permanent improvements as defined in paragraph 34 of subsection 1 (1) of the Education Act, provided that the expenditures for permanent improvements referred to in subparagraphs 1, 2 and 3 of paragraph 33 of subsection 1 (1) of that Act do not exceed,*

(A) *for secondary school purposes, an amount that would increase the sum that would be required to be raised for such purposes by levy on assessment in the Metropolitan Area if no such provision for expenditures were made by an amount calculated at two mills in the dollar upon the total assessment in the Metropolitan Area, and*

(B) *for public school purposes, an amount that would increase the sum that would be required to be raised for such purposes by levy on assessment in the Metropolitan Area if no such provision for expenditures were made by an amount calculated at two mills in the dollar upon the assessment in the Metropolitan Area rateable for public school purposes,*

according to the last revised assessment rolls.

Subsections 2 and 3. The amendments are complementary to the amendments to section 167 of the Act (see section 24 of the Bill).

Subsection 4. The definition of total equalized assessments of the area municipalities is complementary to the amendments to subclause 127 (1) (g) (v) (see subsection 30 (1) of the Bill).

SECTION 31. This section enables municipalities to apply certain moneys held by them for educational purposes to reduce the public school mill rate.

■

Bill 69

1987

An Act to amend the Education Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 8 (1) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1982, chapter 32, section 3 and 1984, chapter 60, section 2, is further amended by adding thereto the following clauses:

(za) issue guidelines respecting the keeping of pupil records and require boards to comply with the guidelines;

(zb) approve awards for the purpose of subclause 48 (7) (f) (iv);

(zc) require boards to establish and maintain a policy of affirmative action with respect to the employment and promotion of women;

(zd) provide an assessment equalization factor,

(i) for each municipality, including, for public and secondary school purposes, any part of territory without municipal organization that is deemed to be attached thereto for such purposes and, for public school purposes, any part of territory without municipal organization that is deemed to be annexed thereto for public school purposes,

(ii) for each locality,

(iii) for each public school section that comprises only territory without municipal organization, and

- (iv) for each separate school zone that comprises only territory without municipal organization, and determine the assessment roll to which each such factor applies;
- (ze) provide interim and final weighting and adjustment factors for the purposes of the regulations;
- (zf) prescribe the number of instalments in which payments of legislative grants shall be paid to boards, the dates upon which the payments shall be made and the amounts of the payments as a percentage of the total amount estimated by the Minister to be payable to the boards;
- (zg) approve the entering into of an agreement by boards under subsection 159a (1).

(2) Section 8 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 3 and 1984, chapter 60, section 2, is further amended by adding thereto the following subsection:

Additional
powers of
Minister

(1a) The Minister may, for the purposes of the calculation and payment of legislative grants,

- (a) approve classes, courses and programs;
- (b) approve adult basic education as defined in subsection 165a (1) provided for boards by,
 - (i) colleges of applied arts and technology, and
 - (ii) community groups; and
- (c) prescribe the standards that shall be attained by a community group in respect of the provision of adult basic education under subsection 165 (3) and the criteria that shall be used to determine whether the standards are attainable.

2.—(1) Paragraph 14 of subsection 10 (1) of the said Act is amended by striking out “and providing for the payment of moneys to assist in the cost of establishment and maintenance of such schools” in the fifth, sixth and seventh lines.

(2) Paragraphs 15 and 16 of the said subsection 10 (1) are repealed and the following substituted therefor:

15. providing for the holding of examinations for persons to become supervisory officers and governing such examinations.

supervisory
officers,
examinations

(3) Section 10 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 4, 1984, chapter 60, section 4 and 1986, chapter 64, section 12, is further amended by adding thereto the following subsection:

(2) The Metropolitan Toronto School Board may, subject to the regulations in respect of evening classes, provide during the school day or outside the school day a program for adults, who by reason of age do not have the right to attend a school or class operated by the School Board for exceptional pupils whose intellectual functioning is below that of a person with mild retardation and,

Provision
of evening
classes
by The
Metropolitan
Toronto
School Board

- (a) are otherwise qualified to be resident pupils of a board of education that has jurisdiction in The Municipality of Metropolitan Toronto; or
- (b) not being qualified to be resident pupils as mentioned in clause (a), were pupils in such a school or class operated by the School Board.

(4) Clause 10 (3) (a) of the said Act is amended by striking out “providing for” in the first line and inserting in lieu thereof “governing”.

(5) Subclause 10 (3) (c) (ii) of the said Act is amended by inserting after “enrolment” in the second line “portion, number, estimate, facility, unit, project”.

(6) Clause 10 (3) (c) of the said Act is amended by striking out “and” at the end of subclause (iii) and by adding thereto the following subclauses:

- (v) applying factors in the calculation of the grants, and
- (vi) authorizing the Minister to adjust amounts of assessment.

(7) Clause 10 (3) (e) of the said Act is amended by striking out “calculating” in the first line and inserting in lieu thereof “determining”.

(8) Subsection 10 (3) of the said Act is amended by adding thereto the following clauses:

- (g) providing for the payment of moneys to assist in the cost of the establishment and maintenance of schools referred to in paragraph 14 of subsection (1);
- (h) providing for assistance in the payment of board, lodging and transportation costs of elementary and secondary school pupils;
- (i) governing the provision of assistance for the payment of the cost of education of pupils who,
 - (i) reside in the territorial districts, on lands held by the Crown in right of Canada or Ontario or by an agency of Canada or Ontario or on other lands that are exempt from taxation for school purposes,
 - (ii) are qualified to be resident pupils in respect of a school section, separate school zone or secondary school district in Ontario and receive elementary or secondary education in Manitoba or Quebec, as the case may be, where, in the opinion of the Minister, daily transportation to a school in Ontario or the provision of board, lodging and transportation to and from a school in Ontario once a week is impracticable,
 - (iii) are wards of or in care of a children's aid society, or
 - (iv) are admitted to a centre, facility, home, hospital or institution that is approved, designated, established, licensed or registered under any Act;
- (j) providing for payments to a board for the purpose of limiting in a year the amount of the requisition for public or secondary school purposes or the increase in the mill rate for separate school purposes in respect of,
 - (i) a municipality or part thereof, or
 - (ii) a part of territory without municipal organization that is deemed to be a district municipality,

under the jurisdiction of the board.

(2) Section 10 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 4, 1984, chapter 60, section 4 and 1986, chapter 64, section 12, is further amended by adding thereto the following subsections:

(3a) A regulation made under subsection (3) may, Idem

- (a) be general or particular in its application;
- (b) with respect to clause (3) (e), prescribe the maximum amount of any fee that may be charged; or
- (c) with respect to clause (3) (e), provide for the determination of fees by boards.

.

(12) A regulation made under this section that applies to Idem
The Metropolitan Toronto School Board may,

- (a) deem The Metropolitan Toronto School Board and the boards of education in The Municipality of Metropolitan Toronto to be one divisional board of education; and
- (b) deem the area municipalities in The Municipality of Metropolitan Toronto to be one urban municipality.



3. Subsection 48 (6) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 32, section 12, is repealed and the following substituted therefor:


(6) Despite any other provision of this Part, if a board admits a person who is not a Canadian citizen or a permanent resident to a school that the board operates, the board shall charge the person the maximum fee calculated in accordance with the regulations. Fees for pupils

(7) Subsection (6) does not apply to, Application of sub. (6)

- (a) a person who is a participant in an educational exchange program under which a pupil of the board attends a school outside Canada without a fee;
- (b) a person who enrolled in an elementary school or a secondary school prior to the 1st day of July, 1982;
- (c) a person who is a dependant within the meaning of the *Visiting Forces Act* (Canada);

R.S.C. 1970,
c. V-6

1976-77, c.
52 (Can.)

- (d) a person who is in Canada under a diplomatic, consular or official acceptance issued by the Department of External Affairs;
- (e) a person who claims to be or is found to be a convention refugee under the *Immigration Act, 1976* (Canada);
- (f) a person who is in Canada while the person's parent or other person who has lawful custody of the person is in Canada,
 - (i) pursuant to employment authorization or ministerial permit issued by the Department of Employment and Immigration,
 - (ii) under a diplomatic, consular or official acceptance issued by the Department of External Affairs,
 - (iii) awaiting determination of a claim to be found a convention refugee under the *Immigration Act, 1976* (Canada),
 - (iv) as a graduate student who is the recipient of an award approved by the Minister for the purposes of this clause and who is in attendance at a university or institution in Ontario, including its affiliated or federated institutions, that receives operating grants from the Ministry of Colleges and Universities, or
 - (v) in accordance with an agreement with a university outside Canada to teach at an institution in Ontario, including its affiliated or federated institutions, that receives operating grants from the Ministry of Colleges and Universities; or
- (g) a person who is in Canada while the person's parent or other person who has lawful custody of the person is in Canada as a convention refugee under the *Immigration Act, 1976* (Canada). 

4.—(1) Subsection 54 (1) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 15 and 1988, chapter 27, section 4, is further amended by adding thereto the following clause:

- (b) assign a name to a divisional board that has jurisdiction in a territorial district.

(2) Subsection 54 (4) of the said Act is amended by inserting after “City of” in the third and fourth lines “or “Conseil de l’éducation de la cité de” or both”.

(3) Subsection 54 (5) of the said Act is amended by inserting after “Education” in the third line “or “Conseil de l’éducation du comté de” or both”.

(4) Subsection 54 (6) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 15, is further amended by inserting after “Education” in the seventh line “or “Conseil de l’éducation de” or both”.

(5) Subsection 54 (7) of the said Act is amended by inserting after “Education” in the third line “or “Conseil de l’éducation de” or both”.

(6) Section 54 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 15, is further amended by adding thereto the following subsection:

(8) The name of a divisional board may be as follows where approved by the Minister: Bilingual

“Conseil de l’éducation de Board of Education” (*inserting the name of the defined city, county or name approved by the Minister or assigned by the regulations*).

5.—(1) Subsection 60 (3) of the said Act is amended by inserting after “of” in the third line “or “Conseil de l’éducation de” or both”.

(2) Subsection 60 (4) of the said Act is amended by inserting after “Education” in the third line “or “Conseil de l’éducation de” or both”.

6. Subsection 62 (5) of the said Act is amended by inserting after “Board” in the third line “or “Conseil du secteur scolaire de district de” or both”.

7.—(1) Clause 83 (5) (a) of the said Act is amended by inserting after “Board” in the second line “or “Conseil des écoles séparées catholiques de” or both”.

(2) Clause 83 (5) (b) of the said Act is amended by inserting after "Board" " " in the third line "or "Conseil des écoles séparées catholiques de" or both".

8. Subsection 84 (2) of the said Act is amended by inserting after "Board" " " in the fifth line "or "Conseil des écoles séparées catholiques de" or both".

9. Subsection 87 (4) of the said Act is amended by inserting after "Board" " " in the third line "or "Conseil fusionné des écoles séparées catholiques de" or both".

10.—(1) Subsection 111 (1) of the said Act is amended by inserting after "Board" " " in the fourth line "or "Conseil des écoles séparées catholiques du comté de" or both".

(2) Subsection 111 (2) of the said Act is amended by inserting after "Board" " " in the fifth line "or "Conseil des écoles séparées catholiques du comté de" or both".

(3) Subsection 111 (3) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 35, is further amended by inserting after "Board" " " in the amendment of 1982 "or "Conseil des écoles séparées catholiques du district de" or both".

(4) Subsection 111 (4) of the said Act is amended by,

- (a) striking out "117 and 118" in the second line and inserting in lieu thereof "116 and 117"; and
- (b) inserting after "Board" " " in the fifth line "or "Conseil des écoles séparées catholiques de" or both".

(5) Section 111 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 35, is further amended by adding thereto the following subsection:

Bilingual

(5) The name of a county or district combined separate school board may be as follows where approved by the Minister:

"Conseil des écoles séparées catholiques de de (County or District) Roman Catholic Separate School Board" (*inserting the name of the county or counties, district or districts, name selected by the board and approved by the Minister or name of area designated by the regulations*).

11. Subsection 116 (2) of the said Act, as amended by the Statutes of Ontario, 1988, chapter 27, section 22, is further amended by inserting after “Board” ” in the third line “in English and “Conseil des écoles séparées catholiques d’Ottawa” in French”.

12. Subsection 117 (2) of the said Act is amended by inserting after “Board” ” in the third line “in English and “Conseil des écoles séparées catholiques de Carleton” in French”.

13. Section 130 of the said Act, as amended by the Statutes of Ontario, 1988, chapter 23, section 8, is further amended by adding thereto the following subsections:

(5a) Where the arbitrators conclude that it would be more just and equitable in the interests of the supporters of the board for the board when setting the rates to be levied in a year to have apportioned its requirements in accordance with a regulation made under section 214 in respect of the year, the arbitrators shall so advise the board when they have determined and reported the factors under subsection (5).

Apportionment under s. 214

(5b) After being advised under subsection (5a), the board may resolve to apportion its requirements in accordance with the regulation that applies for the year.

Resolution of board

(5c) A board that resolves to apportion under subsection (5b) shall forthwith notify the Minister of its decision.

Notice

(5d) The review referred to in section 214 does not apply in the case of a board that acts under subsection (5b).

Non-application

14.—(1) Subsection 136e (2) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, is amended by inserting after “to” in the second line “in addition to conditions that may be made under clause 10 (3) (b)”.

(2) Section 136e of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, is amended by adding thereto the following subsection:

(5) A regulation made for the purposes of this section,

Regulations

(a) may be general or particular in its application; or

(b) may provide for the withholding or repayment of all or part of a grant where a condition of the grant is not satisfied.




15. Section 136i of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, is amended by adding thereto the following subsections:

Application
of sub. (1)

(1a) Subsection (1) does not apply where a public board has part of the same area of jurisdiction as a Roman Catholic school board as a result of the fact that a separate school zone that comprises part of the county or district combined Roman Catholic separate school zone for which the Roman Catholic school board was established has a centre that is situate within 4.8 kilometres of the boundary of the public board and is not situate within the area of jurisdiction of the public board.

Idem

(1b) Part VII-A applies with respect to the election of members elected by separate school electors to a public board to which subsection (1a) applies as if the coterminous Roman Catholic separate school board as defined in subsection 206a (1) was not a Roman Catholic school board. 

16. Section 145 of the said Act is amended by inserting after “the ...” in the third line “or “Conseil des écoles séparées protestantes de ...” or both”.

17.—(1) Paragraph 19 of subsection 150 (1) of the said Act is amended by inserting after “moneys” in the first line “other than moneys held in a reserve fund and that are”.

(2) Subsection 150 (1) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 40 and 1984, chapter 60, section 10, is further amended by adding thereto the following paragraph:

idem

19a. invest moneys held in a reserve fund in,

R.S.O. 1980,
c. 218

i. guaranteed contracts issued by an insurer licensed under the *Insurance Act*, and

R.S.O. 1980,
c. 512

ii. such securities as a trustee may invest in under the *Trustee Act* provided that all interest and gain thereon is credited to the fund from which the moneys are invested.

(3) Paragraph 38 of subsection 150 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 60, section 10, is amended by adding at the end thereof “or a demonstration school for exceptional pupils”.

(4) Subsection 150 (1) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 40 and 1984,

chapter 60, section 10, is further amended by adding thereto the following paragraph:

46. designate portions of current expenditure of the board as ordinary expenditures for the purposes of legislative grants provided for by a regulation made under subsection 10 (3).
- designation of expenditures

18. The said Act is amended by adding thereto the following section:

150a. Where in any Act, other than this Act, a board, other than a board that by an Act is given a name in the French language, is given a name in English, the board shall be known by such name in French as the board may by resolution select and the Minister may approve.

Board name

19. Section 154 of the said Act is amended by adding thereto the following paragraph:

- 1a. provide for any or all of the members of the board any benefit that may be provided for the employees of the board under section 155 and any other benefits of a like nature that the board considers appropriate.
- benefits

20. Subclause 155 (1) (a) (i) of the said Act is amended by adding at the end thereof “and their spouses and children”.

21. The said Act is further amended by adding thereto the following section:

159a.—(1) A public board that has jurisdiction in an area that is also the area or part of the area of jurisdiction of a Roman Catholic school board may, with the approval of the Minister, enter into an agreement with the Roman Catholic school board to transfer a secondary school established and operated under Part XI or a French-language instructional unit as defined in section 277c to the Roman Catholic school board.

Transfer of French-language instructional unit

(2) A transfer of a secondary school referred to in subsection (1) is not a closing of the secondary school.

Transfer not a closing

22. Section 165a of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 32, section 45, is amended by adding thereto the following subsection:

(3) A board may, in respect of persons who reside in the area of jurisdiction of the board, enter into an agreement in

Idem

writing with a community group for the provision by the group of adult basic education that is approved by the Minister.

23. Subsection 166 (2) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 55, section 216, is further amended by,

- (a) striking out “severe learning disabilities” in the fifth line and inserting in lieu thereof “severe communicational exceptionalities”; and
- (b) striking out “premises approved under subsection 9 (1) of Part I (Flexible Services) of the *Child and Family Services Act, 1984* for the provision of a child development service or child treatment service” in the amendment of 1984 and inserting in lieu thereof “a place where an agency approved under subsection 8 (1) of Part I (Flexible Services) of the *Child and Family Services Act, 1984* provides a child development service, a child treatment service or a child and family intervention service”.

24. Subsection 167 (1), as re-enacted by the Statutes of Ontario, 1982, chapter 32, section 47, subsections (1a), (1b) and (1c), as enacted by the Statutes of Ontario, 1982, chapter 32, section 47, and subsection (2), as re-enacted by the Statutes of Ontario, 1982, chapter 32, section 47, of the said Act are repealed and the following substituted therefor:

Allowance
for members

(1) A board may pay to each member of the board an allowance in such amount that is determined by the board to be payable to the members thereof.

Chairman
and vice-
chairman

(2) A board may pay an allowance in such amount as is determined by the board in addition to the allowance payable under subsection (1) to the chairman and vice-chairman of the board and to the chairmen of committees of the board.

Different
allowances

(2a) The additional allowance payable to the chairman may differ from the additional allowance payable to the vice-chairman.

Basis of
allowance

(2b) A member of a board of education elected by separate school electors, a member of the board elected for the purposes of Part XI-A and a member appointed to the board is entitled to an allowance on the same basis as a member of the board elected by public school electors.

↓
(2c) A trustee of a separate school board elected for the purposes of Part XI-A or appointed to the board is entitled to an allowance on the same basis as a trustee who is elected, other than for the purposes of Part XI-A, by separate school electors. ↑

Idem

(2d) A board may at any time decrease any allowance payable to members, the chairman or the vice-chairman of the board.

Decrease in allowance

(2e) Where the French-language education council, English-language education council, French-language section or English-language section of a board has a chairman or a vice-chairman of the council or section, as the case may be, the council or section may authorize an additional allowance, not to exceed that paid to the chairman or vice-chairman of the board under subsection (2), to be paid to the chairman or vice-chairman of the council or section.

Chairman and vice-chairman of council or section

(2f) A chairman or vice-chairman of a council or section may only be paid one additional allowance.

Idem

(2g) An allowance payable under subsection (1), (2) or (2e) with respect to a French-language education council or French-language section shall be included as part of centralized services for the purposes of allocating amounts under section 277n.

Allocation of cost

25. Subsection 196 (1a) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 32, section 53, is amended by striking out “subsection (2)” in the eleventh line and inserting in lieu thereof “subsection (3)”.

26. Subsection 217 (1) of the said Act is amended by,

- (a) adding after “note” in the fourth line “or a banker’s acceptance that is drawn as a bill of exchange under the *Bills of Exchange Act* (Canada) on a bank to which the *Bank Act* (Canada) applies”; and
- (b) striking out “minimum lending rate of the majority of chartered banks on the date of borrowing” in the ninth and tenth lines and inserting in lieu thereof “prime lending rate on the date of borrowing, of the chartered banks listed in Schedule A of the *Bank Act* (Canada)”.

27. Subsection 237 (1) of the said Act is amended by adding at the end thereof “and the guidelines issued by the Minister”.

28. Section 252 of the said Act is amended by adding thereto the following subsections:

Idem

(2) Two or more boards of education that each have an enrolment in its public and secondary schools of fewer than 2,000, two or more district school area boards or a board of education and a district school area board may with the approval of the Minister agree to appoint a supervisory officer as director of education to be responsible to the boards for the development, implementation, operation and supervision of educational programs in the schools of the boards.

Idem

(3) Two or more county or district combined separate school boards that each have an enrolment in its schools of fewer than 2,000, two or more rural or combined separate school boards or a rural or combined separate school board and a district combined separate school board may with the approval of the Minister agree to appoint a supervisory officer as director of education to be responsible to the boards for the development, implementation, operation and supervision of educational programs in the schools of the boards.



29. Subsections 277s (1), (2) and (3) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, are repealed and the following substituted therefor:

Notice to
Minister

(1) Where a French-language section becomes aware that it will not be operating a French-language instructional unit and it will not be providing education for at least 285 resident pupils of the board or at least 9.50 per cent of the resident pupils of the board pursuant to an agreement as described in subsection 277d (2) or (3), the French-language section shall forthwith notify in writing the full board of such fact and the effective date thereof and the board shall forthwith notify in writing the Minister.

Dissolution

(2) Unless the notice to the Minister under subsection (1) is revoked, the French-language section of a board in respect of which a notice is required to be given to the Minister is dissolved on the thirtieth day next following the date upon which the section ceases to operate a unit or provide the education referred to in subsection (1) and the members shall cease to hold office on that date.

Revocation
of notice

(3) A board, upon written request of the French-language section of the board that is received before the dissolution of the French-language section of the board, shall revoke by notice in writing delivered to the Minister, a notice given to the Minister under subsection (1).

(3a) Where a public board agrees to transfer a secondary school established and operated under Part XI to a Roman Catholic school board under section 159a, the agreement to transfer is not an agreement referred to in subsections 277d (2) and (3).

Section 159a
agreement
distinguished

30.—(1) Subclause 127 (1) (g) (v) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(v) may provide for expenditures for permanent improvements as defined in paragraph 34 of subsection 1 (1) of the *Education Act* and for an allocation to a reserve fund, provided that the total of expenditures for permanent improvements referred to in subparagraphs i, ii and iii of paragraph 34 of subsection 1 (1) of that Act and any sum allocated to a reserve fund do not exceed,

R.S.O. 1980,
c. 129

(A) for secondary school purposes, an amount that would increase the sum that would be required to be raised by levy for secondary school purposes in the Metropolitan Area if no such provision for expenditures and allocation were made, by an amount calculated at one mill of the dollar upon the total equalized assessments of the area municipalities for public secondary school purposes, and

(B) for public school purposes, an amount that would increase the sum that would be required to be raised by levy for public school purposes in the Metropolitan Area if no such provision for expenditures and allocation were made, by an amount calculated at one mill in the dollar upon the total equalized assessments of the area municipalities for public elementary school purposes.

(2) Subsection 127 (1b) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 6, is repealed and the following substituted therefor:

(1b) The School Board may pay an allowance in such amount as is determined by the School Board in addition to

Allowance to
vice-chairman

the allowance payable under clause (1a) (a) or (b) to the vice-chairman of the School Board.

Different
allowances

(1ba) An allowance payable to the chairman may differ from that payable to the vice-chairman.

(3) Subsection 127 (1c) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 6, is amended by inserting after “subsection (1a)” in the second line “or (1b)”.

(4) Subsection 127 (7) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 6 and amended by the Statutes of Ontario, 1984, chapter 10, section 1, is further amended by adding thereto the following clause:

(ba) “total equalized assessments of the area municipalities” means for public secondary school purposes and for public elementary school purposes the sum of the assessment upon which taxes are levied for such purposes in each area municipality in the year for which the estimates are approved in whole or in part by the School Board where the assessment of each area municipality is adjusted by the application of the latest equalization factor applicable thereto that is provided by the Minister.

Reserve fund
for public
school
purposes,
application
in 1989


31. Moneys that were held by a municipality as of the 31st day of December, 1986 and are still being held and were derived from the Ontario Municipalities Fund or from any other source for public school purposes, except the collection of rates, shall be applied by the municipality in the year 1989 to reduce the rate that would otherwise be required to be levied for public school purposes in the municipality.



Commence-
ment

32.—(1) This Act, except section 13, comes into force on the day it receives Royal Assent.

Idem

(2) Section 13 shall be deemed to have come into force on the 1st day of January, 1988. 

Short title

33. The short title of this Act is the *Education Amendment Act, 1989*.

Bill 69

(Chapter 1
Statutes of Ontario, 1989)

An Act to amend the Education Act

The Hon. C. Ward
Minister of Education



<i>1st Reading</i>	December 14th, 1987
<i>2nd Reading</i>	January 11th, 1989
<i>3rd Reading</i>	February 23rd, 1989
<i>Royal Assent</i>	February 27th, 1989

Bill 69**1987****An Act to amend the Education Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 8 (1) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1982, chapter 32, section 3 and 1984, chapter 60, section 2, is further amended by adding thereto the following clauses:

- (za) issue guidelines respecting the keeping of pupil records and require boards to comply with the guidelines;
- (zb) approve awards for the purpose of subclause 48 (7) (f) (iv);
- (zc) require boards to establish and maintain a policy of affirmative action with respect to the employment and promotion of women;
- (zd) provide an assessment equalization factor,
 - (i) for each municipality, including, for public and secondary school purposes, any part of territory without municipal organization that is deemed to be attached thereto for such purposes and, for public school purposes, any part of territory without municipal organization that is deemed to be annexed thereto for public school purposes,
 - (ii) for each locality,
 - (iii) for each public school section that comprises only territory without municipal organization, and

(iv) for each separate school zone that comprises only territory without municipal organization,

and determine the assessment roll to which each such factor applies;

(ze) provide interim and final weighting and adjustment factors for the purposes of the regulations;

(zf) prescribe the number of instalments in which payments of legislative grants shall be paid to boards, the dates upon which the payments shall be made and the amounts of the payments as a percentage of the total amount estimated by the Minister to be payable to the boards;

(zg) approve the entering into of an agreement by boards under subsection 159a (1).

(2) Section 8 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 3 and 1984, chapter 60, section 2, is further amended by adding thereto the following subsection:

Additional
powers of
Minister

(1a) The Minister may, for the purposes of the calculation and payment of legislative grants,

(a) approve classes, courses and programs;

(b) approve adult basic education as defined in subsection 165a (1) provided for boards by,

(i) colleges of applied arts and technology, and

(ii) community groups; and

(c) prescribe the standards that shall be attained by a community group in respect of the provision of adult basic education under subsection 165 (3) and the criteria that shall be used to determine whether the standards are attainable.

2.—(1) Paragraph 14 of subsection 10 (1) of the said Act is amended by striking out “and providing for the payment of moneys to assist in the cost of establishment and maintenance of such schools” in the fifth, sixth and seventh lines.

(2) Paragraphs 15 and 16 of the said subsection 10 (1) are repealed and the following substituted therefor:

15. providing for the holding of examinations for persons to become supervisory officers and governing such examinations. supervisory officers, examinations

(3) Section 10 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 4, 1984, chapter 60, section 4 and 1986, chapter 64, section 12, is further amended by adding thereto the following subsection:

(2) The Metropolitan Toronto School Board may, subject to the regulations in respect of evening classes, provide during the school day or outside the school day a program for adults, who by reason of age do not have the right to attend a school or class operated by the School Board for exceptional pupils whose intellectual functioning is below that of a person with mild retardation and, Provision of evening classes by The Metropolitan Toronto School Board

- (a) are otherwise qualified to be resident pupils of a board of education that has jurisdiction in The Municipality of Metropolitan Toronto; or
- (b) not being qualified to be resident pupils as mentioned in clause (a), were pupils in such a school or class operated by the School Board.

(4) Clause 10 (3) (a) of the said Act is amended by striking out “providing for” in the first line and inserting in lieu thereof “governing”.

(5) Subclause 10 (3) (c) (ii) of the said Act is amended by inserting after “enrolment” in the second line “portion, number, estimate, facility, unit, project”.

(6) Clause 10 (3) (c) of the said Act is amended by striking out “and” at the end of subclause (iii) and by adding thereto the following subclauses:

- (v) applying factors in the calculation of the grants, and
- (vi) authorizing the Minister to adjust amounts of assessment.

(7) Clause 10 (3) (e) of the said Act is amended by striking out “calculating” in the first line and inserting in lieu thereof “determining”.

(8) Subsection 10 (3) of the said Act is amended by adding thereto the following clauses:

- (g) providing for the payment of moneys to assist in the cost of the establishment and maintenance of schools referred to in paragraph 14 of subsection (1);
- (h) providing for assistance in the payment of board, lodging and transportation costs of elementary and secondary school pupils;
- (i) governing the provision of assistance for the payment of the cost of education of pupils who,
 - (i) reside in the territorial districts, on lands held by the Crown in right of Canada or Ontario or by an agency of Canada or Ontario or on other lands that are exempt from taxation for school purposes,
 - (ii) are qualified to be resident pupils in respect of a school section, separate school zone or secondary school district in Ontario and receive elementary or secondary education in Manitoba or Quebec, as the case may be, where, in the opinion of the Minister, daily transportation to a school in Ontario or the provision of board, lodging and transportation to and from a school in Ontario once a week is impracticable,
 - (iii) are wards of or in care of a children's aid society, or
 - (iv) are admitted to a centre, facility, home, hospital or institution that is approved, designated, established, licensed or registered under any Act;
- (j) providing for payments to a board for the purpose of limiting in a year the amount of the requisition for public or secondary school purposes or the increase in the mill rate for separate school purposes in respect of,
 - (i) a municipality or part thereof, or
 - (ii) a part of territory without municipal organization that is deemed to be a district municipality,

under the jurisdiction of the board.

(9) Section 10 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 4, 1984, chapter 60, section 4 and 1986, chapter 64, section 12, is further amended by adding thereto the following subsections:

- (3a) A regulation made under subsection (3) may, Idem
- (a) be general or particular in its application;
 - (b) with respect to clause (3) (e), prescribe the maximum amount of any fee that may be charged; or
 - (c) with respect to clause (3) (e), provide for the determination of fees by boards.

(12) A regulation made under this section that applies to Idem
The Metropolitan Toronto School Board may,

- (a) deem The Metropolitan Toronto School Board and the boards of education in The Municipality of Metropolitan Toronto to be one divisional board of education; and
- (b) deem the area municipalities in The Municipality of Metropolitan Toronto to be one urban municipality.

3. Subsection 48 (6) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 32, section 12, is repealed and the following substituted therefor:

(6) Despite any other provision of this Part, if a board admits a person who is not a Canadian citizen or a permanent resident to a school that the board operates, the board shall charge the person the maximum fee calculated in accordance with the regulations. Fees for pupils

- (7) Subsection (6) does not apply to, Application of sub. (6)
- (a) a person who is a participant in an educational exchange program under which a pupil of the board attends a school outside Canada without a fee;
 - (b) a person who enrolled in an elementary school or a secondary school prior to the 1st day of July, 1982;
 - (c) a person who is a dependant within the meaning of the *Visiting Forces Act* (Canada); R.S.C. 1985, c. V-2

R.S.C. 1985,
c. 1-2

- (d) a person who is in Canada under a diplomatic, consular or official acceptance issued by the Department of External Affairs;
- (e) a person who claims to be or is found to be a convention refugee under the *Immigration Act* (Canada);
- (f) a person who is in Canada while the person's parent or other person who has lawful custody of the person is in Canada,
 - (i) pursuant to employment authorization or ministerial permit issued by the Department of Employment and Immigration,
 - (ii) under a diplomatic, consular or official acceptance issued by the Department of External Affairs,
 - (iii) awaiting determination of a claim to be found a convention refugee under the *Immigration Act* (Canada),
 - (iv) as a graduate student who is the recipient of an award approved by the Minister for the purposes of this clause and who is in attendance at a university or institution in Ontario, including its affiliated or federated institutions, that receives operating grants from the Ministry of Colleges and Universities, or
 - (v) in accordance with an agreement with a university outside Canada to teach at an institution in Ontario, including its affiliated or federated institutions, that receives operating grants from the Ministry of Colleges and Universities; or
- (g) a person who is in Canada while the person's parent or other person who has lawful custody of the person is in Canada as a convention refugee under the *Immigration Act* (Canada).

4.—(1) Subsection 54 (1) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 15 and 1988, chapter 27, section 4, is further amended by adding thereto the following clause:

- (b) assign a name to a divisional board that has jurisdiction in a territorial district.

(2) Subsection 54 (4) of the said Act is amended by inserting after “City of” in the third and fourth lines “or “Conseil de l’éducation de la cité de” or both”.

(3) Subsection 54 (5) of the said Act is amended by inserting after “Education” in the third line “or “Conseil de l’éducation du comté de” or both”.

(4) Subsection 54 (6) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 15, is further amended by inserting after “Education” in the seventh line “or “Conseil de l’éducation de” or both”.

(5) Subsection 54 (7) of the said Act is amended by inserting after “Education” in the third line “or “Conseil de l’éducation de” or both”.

(6) Section 54 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 15, is further amended by adding thereto the following subsection:

(8) The name of a divisional board may be as follows where Bilingual
approved by the Minister:

“Conseil de l’éducation de Board of
Education” (*inserting the name of the
defined city, county or name approved by
the Minister or assigned by the regulations*).

5.—(1) Subsection 60 (3) of the said Act is amended by inserting after “of” in the third line “or “Conseil de l’éducation de” or both”.

(2) Subsection 60 (4) of the said Act is amended by inserting after “Education” in the third line “or “Conseil de l’éducation de” or both”.

6. Subsection 62 (5) of the said Act is amended by inserting after “Board” in the third line “or “Conseil du secteur scolaire de district de” or both”.

7.—(1) Clause 83 (5) (a) of the said Act is amended by inserting after “Board” in the second line “or “Conseil des écoles séparées catholiques de” or both”.

(2) Clause 83 (5) (b) of the said Act is amended by inserting after "Board" " " in the third line "or "Conseil des écoles séparées catholiques de" or both".

8. Subsection 84 (2) of the said Act is amended by inserting after "Board" " " in the fifth line "or "Conseil des écoles séparées catholiques de" or both".

9. Subsection 87 (4) of the said Act is amended by inserting after "Board" " " in the third line "or "Conseil fusionné des écoles séparées catholiques de" or both".

10.—(1) Subsection 111 (1) of the said Act is amended by inserting after "Board" " " in the fourth line "or "Conseil des écoles séparées catholiques du comté de" or both".

(2) Subsection 111 (2) of the said Act is amended by inserting after "Board" " " in the fifth line "or "Conseil des écoles séparées catholiques du comté de" or both".

(3) Subsection 111 (3) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 35, is further amended by inserting after "Board" " " in the amendment of 1982 "or "Conseil des écoles séparées catholiques du district de" or both".

(4) Subsection 111 (4) of the said Act is amended by,

- (a) striking out "117 and 118" in the second line and inserting in lieu thereof "116 and 117"; and
- (b) inserting after "Board" " " in the fifth line "or "Conseil des écoles séparées catholiques de" or both".

(5) Section 111 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 35, is further amended by adding thereto the following subsection:

Bilingual

(5) The name of a county or district combined separate school board may be as follows where approved by the Minister:

"Conseil des écoles séparées catholiques de de (County or District) Roman Catholic Separate School Board" (*inserting the name of the county or counties, district or districts, name selected by the board and approved by the Minister or name of area designated by the regulations*).

11. Subsection 116 (2) of the said Act, as amended by the Statutes of Ontario, 1988, chapter 27, section 22, is further amended by inserting after “Board” in the third line “in English and “Conseil des écoles séparées catholiques d’Ottawa” in French”.

12. Subsection 117 (2) of the said Act is amended by inserting after “Board” in the third line “in English and “Conseil des écoles séparées catholiques de Carleton” in French”.

13. Section 130 of the said Act, as amended by the Statutes of Ontario, 1988, chapter 23, section 8, is further amended by adding thereto the following subsections:

(5a) Where the arbitrators conclude that it would be more just and equitable in the interests of the supporters of the board for the board when setting the rates to be levied in a year to have apportioned its requirements in accordance with a regulation made under section 214 in respect of the year, the arbitrators shall so advise the board when they have determined and reported the factors under subsection (5).

Apportionment under s. 214

(5b) After being advised under subsection (5a), the board may resolve to apportion its requirements in accordance with the regulation that applies for the year.

Resolution of board

(5c) A board that resolves to apportion under subsection (5b) shall forthwith notify the Minister of its decision.

Notice

(5d) The review referred to in section 214 does not apply in the case of a board that acts under subsection (5b).

Non-application

14.—(1) Subsection 136e (2) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, is amended by inserting after “to” in the second line “in addition to conditions that may be made under clause 10 (3) (b)”.

(2) Section 136e of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, is amended by adding thereto the following subsection:

(5) A regulation made for the purposes of this section,

Regulations

(a) may be general or particular in its application; or

(b) may provide for the withholding or repayment of all or part of a grant where a condition of the grant is not satisfied.

15. Section 136i of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, is amended by adding thereto the following subsections:

Application
of sub. (1)

(1a) Subsection (1) does not apply where a public board has part of the same area of jurisdiction as a Roman Catholic school board as a result of the fact that a separate school zone that comprises part of the county or district combined Roman Catholic separate school zone for which the Roman Catholic school board was established has a centre that is situate within 4.8 kilometres of the boundary of the public board and is not situate within the area of jurisdiction of the public board.

Idem

(1b) Part VII-A applies with respect to the election of members elected by separate school electors to a public board to which subsection (1a) applies as if the coterminous Roman Catholic separate school board as defined in subsection 206a (1) was not a Roman Catholic school board.

16. Section 145 of the said Act is amended by inserting after “the ...” in the third line “or “Conseil des écoles séparées protestantes de ...” or both”.

17.—(1) Paragraph 19 of subsection 150 (1) of the said Act is amended by inserting after “moneys” in the first line “other than moneys held in a reserve fund and that are”.

(2) Subsection 150 (1) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 40 and 1984, chapter 60, section 10, is further amended by adding thereto the following paragraph:

idem

19a. invest moneys held in a reserve fund in,

R.S.O. 1980,
c. 218

i. guaranteed contracts issued by an insurer licensed under the *Insurance Act*, and

R.S.O. 1980,
c. 512

ii. such securities as a trustee may invest in under the *Trustee Act* provided that all interest and gain thereon is credited to the fund from which the moneys are invested.

(3) Paragraph 38 of subsection 150 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 60, section 10, is amended by adding at the end thereof “or a demonstration school for exceptional pupils”.

(4) Subsection 150 (1) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 40 and 1984,

chapter 60, section 10, is further amended by adding thereto the following paragraph:

46. designate portions of current expenditure of the board as ordinary expenditures for the purposes of legislative grants provided for by a regulation made under subsection 10 (3).
- designation of expenditures

18. The said Act is amended by adding thereto the following section:

150a. Where in any Act, other than this Act, a board, other than a board that by an Act is given a name in the French language, is given a name in English, the board shall be known by such name in French as the board may by resolution select and the Minister may approve.

Board name

19. Section 154 of the said Act is amended by adding thereto the following paragraph:

- 1a. provide for any or all of the members of the board any benefit that may be provided for the employees of the board under section 155 and any other benefits of a like nature that the board considers appropriate.
- benefits

20. Subclause 155 (1) (a) (i) of the said Act is amended by adding at the end thereof “and their spouses and children”.

21. The said Act is further amended by adding thereto the following section:

159a.—(1) A public board that has jurisdiction in an area that is also the area or part of the area of jurisdiction of a Roman Catholic school board may, with the approval of the Minister, enter into an agreement with the Roman Catholic school board to transfer a secondary school established and operated under Part XI or a French-language instructional unit as defined in section 277c to the Roman Catholic school board.

Transfer of French-language instructional unit

(2) A transfer of a secondary school referred to in subsection (1) is not a closing of the secondary school.

Transfer not a closing

22. Section 165a of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 32, section 45, is amended by adding thereto the following subsection:

(3) A board may, in respect of persons who reside in the area of jurisdiction of the board, enter into an agreement in

Idem

writing with a community group for the provision by the group of adult basic education that is approved by the Minister.

23. Subsection 166 (2) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 55, section 216, is further amended by,

- (a) striking out "severe learning disabilities" in the fifth line and inserting in lieu thereof "severe communicational exceptionalities"; and
- (b) striking out "premises approved under subsection 9 (1) of Part I (Flexible Services) of the *Child and Family Services Act, 1984* for the provision of a child development service or child treatment service" in the amendment of 1984 and inserting in lieu thereof "a place where an agency approved under subsection 8 (1) of Part I (Flexible Services) of the *Child and Family Services Act, 1984* provides a child development service, a child treatment service or a child and family intervention service".

24. Subsection 167 (1), as re-enacted by the Statutes of Ontario, 1982, chapter 32, section 47, subsections (1a), (1b) and (1c), as enacted by the Statutes of Ontario, 1982, chapter 32, section 47, and subsection (2), as re-enacted by the Statutes of Ontario, 1982, chapter 32, section 47, of the said Act are repealed and the following substituted therefor:

Allowance
for members

(1) A board may pay to each member of the board an allowance in such amount that is determined by the board to be payable to the members thereof.

Chairman
and vice-
chairman

(2) A board may pay an allowance in such amount as is determined by the board in addition to the allowance payable under subsection (1) to the chairman and vice-chairman of the board and to the chairmen of committees of the board.

Different
allowances

(2a) The additional allowance payable to the chairman may differ from the additional allowance payable to the vice-chairman.

Basis of
allowance

(2b) A member of a board of education elected by separate school electors, a member of the board elected for the purposes of Part XI-A and a member appointed to the board is entitled to an allowance on the same basis as a member of the board elected by public school electors.

(2c) A trustee of a separate school board elected for the purposes of Part XI-A or appointed to the board is entitled to an allowance on the same basis as a trustee who is elected, other than for the purposes of Part XI-A, by separate school electors. Idem

(2d) A board may at any time decrease any allowance payable to members, the chairman or the vice-chairman of the board. Decrease in allowance

(2e) Where the French-language education council, English-language education council, French-language section or English-language section of a board has a chairman or a vice-chairman of the council or section, as the case may be, the council or section may authorize an additional allowance, not to exceed that paid to the chairman or vice-chairman of the board under subsection (2), to be paid to the chairman or vice-chairman of the council or section. Chairman and vice-chairman of council or section

(2f) A chairman or vice-chairman of a council or section may only be paid one additional allowance. Idem

(2g) An allowance payable under subsection (1), (2) or (2e) with respect to a French-language education council or French-language section shall be included as part of centralized services for the purposes of allocating amounts under section 277n. Allocation of cost

25. Subsection 196 (1a) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 32, section 53, is amended by striking out “subsection (2)” in the eleventh line and inserting in lieu thereof “subsection (3)”.

26. Subsection 217 (1) of the said Act is amended by,

- (a) adding after “note” in the fourth line “or a banker’s acceptance that is drawn as a bill of exchange under the *Bills of Exchange Act* (Canada) on a bank to which the *Bank Act* (Canada) applies”; and
- (b) striking out “minimum lending rate of the majority of chartered banks on the date of borrowing” in the ninth and tenth lines and inserting in lieu thereof “prime lending rate on the date of borrowing, of the chartered banks listed in Schedule A of the *Bank Act* (Canada)”.

27. Subsection 237 (1) of the said Act is amended by adding at the end thereof “and the guidelines issued by the Minister”.

28. Section 252 of the said Act is amended by adding thereto the following subsections:

Idem

(2) Two or more boards of education that each have an enrolment in its public and secondary schools of fewer than 2,000, two or more district school area boards or a board of education and a district school area board may with the approval of the Minister agree to appoint a supervisory officer as director of education to be responsible to the boards for the development, implementation, operation and supervision of educational programs in the schools of the boards.

Idem

(3) Two or more county or district combined separate school boards that each have an enrolment in its schools of fewer than 2,000, two or more rural or combined separate school boards or a rural or combined separate school board and a district combined separate school board may with the approval of the Minister agree to appoint a supervisory officer as director of education to be responsible to the boards for the development, implementation, operation and supervision of educational programs in the schools of the boards.

29. Subsections 277s (1), (2) and (3) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, are repealed and the following substituted therefor:

Notice to
Minister

(1) Where a French-language section becomes aware that it will not be operating a French-language instructional unit and it will not be providing education for at least 285 resident pupils of the board or at least 9.50 per cent of the resident pupils of the board pursuant to an agreement as described in subsection 277d (2) or (3), the French-language section shall forthwith notify in writing the full board of such fact and the effective date thereof and the board shall forthwith notify in writing the Minister.

Dissolution

(2) Unless the notice to the Minister under subsection (1) is revoked, the French-language section of a board in respect of which a notice is required to be given to the Minister is dissolved on the thirtieth day next following the date upon which the section ceases to operate a unit or provide the education referred to in subsection (1) and the members shall cease to hold office on that date.

Revocation
of notice

(3) A board, upon written request of the French-language section of the board that is received before the dissolution of the French-language section of the board, shall revoke by notice in writing delivered to the Minister, a notice given to the Minister under subsection (1).

(3a) Where a public board agrees to transfer a secondary school established and operated under Part XI to a Roman Catholic school board under section 159a, the agreement to transfer is not an agreement referred to in subsections 277d (2) and (3).

Section 159a
agreement
distinguished

30.—(1) Subclause 127 (1) (g) (v) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(v) may provide for expenditures for permanent improvements as defined in paragraph 34 of subsection 1 (1) of the *Education Act* and for an allocation to a reserve fund, provided that the total of expenditures for permanent improvements referred to in subparagraphs i, ii and iii of paragraph 34 of subsection 1 (1) of that Act and any sum allocated to a reserve fund do not exceed,

R.S.O. 1980,
c. 129

(A) for secondary school purposes, an amount that would increase the sum that would be required to be raised by levy for secondary school purposes in the Metropolitan Area if no such provision for expenditures and allocation were made, by an amount calculated at one mill of the dollar upon the total equalized assessments of the area municipalities for public secondary school purposes, and

(B) for public school purposes, an amount that would increase the sum that would be required to be raised by levy for public school purposes in the Metropolitan Area if no such provision for expenditures and allocation were made, by an amount calculated at one mill in the dollar upon the total equalized assessments of the area municipalities for public elementary school purposes.

(2) Subsection 127 (1b) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 6, is repealed and the following substituted therefor:

(1b) The School Board may pay an allowance in such amount as is determined by the School Board in addition to

Allowance to
vice-chairman

the allowance payable under clause (1a) (a) or (b) to the vice-chairman of the School Board.

Different
allowances

(1ba) An allowance payable to the chairman may differ from that payable to the vice-chairman.

(3) Subsection 127 (1c) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 6, is amended by inserting after "subsection (1a)" in the second line "or (1b)".

(4) Subsection 127 (7) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 6 and amended by the Statutes of Ontario, 1984, chapter 10, section 1, is further amended by adding thereto the following clause:

(ba) "total equalized assessments of the area municipalities" means for public secondary school purposes and for public elementary school purposes the sum of the assessment upon which taxes are levied for such purposes in each area municipality in the year for which the estimates are approved in whole or in part by the School Board where the assessment of each area municipality is adjusted by the application of the latest equalization factor applicable thereto that is provided by the Minister.

Reserve fund
for public
school
purposes,
application
in 1989

31. Moneys that were held by a municipality as of the 31st day of December, 1986 and are still being held and were derived from the Ontario Municipalities Fund or from any other source for public school purposes, except the collection of rates, shall be applied by the municipality in the year 1989 to reduce the rate that would otherwise be required to be levied for public school purposes in the municipality.

Commence-
ment

32.—(1) This Act, except section 13, comes into force on the day it receives Royal Assent.

Idem

(2) Section 13 shall be deemed to have come into force on the 1st day of January, 1988.

Short title

33. The short title of this Act is the *Education Amendment Act, 1989*.

Bill 70

An Act to amend the Education Act

The Hon. C. Ward
Minister of Education



1st Reading December 15th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1.—Subsection 1. A definition of “continuing education teacher” and “continuing education instructor” is added to the Act.

Subsection 2. The definition of “occasional teacher” is amended to enable a teacher who substitutes for a “continuing education teacher” to be included in the definition of an “occasional teacher”.

SECTION 2.—Subsection 1. The amendment adds contracts of continuing education teachers to the list of teacher’s contracts that can be prescribed by regulation.

Subsection 2. The new paragraphs 15a and 15b add the power to make regulations defining continuing education courses and classes and prescribing those continuing education classes and courses that must be taught by a teacher.

SECTION 3. The new paragraph 29 enables boards to provide continuing education courses and classes that will in the future include summer schools.

SECTION 4. The amendment makes it clear that a teacher who is a continuing education teacher, a continuing education instructor or an occasional teacher is not to be employed as a permanent or probationary teacher.

SECTION 5. The new section 230a provides that a teacher employed as a continuing education teacher shall be employed on a continuing education teacher’s contract.

During the 1986-87 school year, it was judicially determined that teachers of certain classes conducted otherwise than as part of the regular school day were required to be employed under a teacher’s contract as prescribed by the regulations. The employment relationship of teachers for such classes is inconsistent with employment on either the probationary or permanent teacher’s contract which were the only contract forms able to be prescribed by regulation. It is now proposed in section 230a that persons who are qualified as teachers who are employed to teach those continuing education courses or classes for which a teacher is required, be employed on a continuing education teacher’s contract.

Where it is not required that a continuing education course or class be taught by a teacher, the person who teaches the course or class is a continuing education instructor, regardless of the qualifications held by the person. Such a person will not be under contract as a continuing education teacher.

SECTION 6.—Subsection 1. A teacher is entitled to receive salary in proportion to the number of school days for which the teacher is employed. Subsection (1a) extends this concept to a continuing education teacher.

Subsection 2. The amendment ensures that the failure of a board to enter into a written contract with a continuing education teacher is not a bar to the teacher’s recovering salary.

Bill 70**1987****An Act to amend the Education Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 1 (1) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1981, chapter 47, section 17, 1982, chapter 20, section 2, 1982, chapter 32, section 1, 1984, chapter 60, section 1 and 1986, chapter 21, section 1, is further amended by adding thereto the following paragraphs:

- 6a. “continuing education instructor” means a person employed to teach a continuing education course or class established in accordance with the regulations other than those courses or classes for which a valid certificate of qualification or a letter of standing as a teacher is required by the regulations;
- 6b. “continuing education teacher” means a teacher employed to teach a continuing education course or class established in accordance with the regulations for which a valid certificate of qualification or a letter of standing as a teacher is required by the regulations.

(2) Paragraph 31 of subsection 1 (1) of the said Act is amended by adding after “probationary” in the second line “, continuing education teacher”.

2.—(1) Paragraph 13 of subsection 10 (1) of the said Act is amended by striking out “permanent teacher or a probationary teacher” in the third line and inserting in lieu thereof “permanent, probationary or continuing education teacher”.

(2) Subsection 10 (1) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 4, is further amended by adding thereto the following paragraphs:

- idem 15a. defining and governing continuing education courses and classes;
- continuing education courses and classes 15b. prescribing the continuing education courses and classes for which a valid certificate of qualification or a letter of standing as a teacher is required.

3. Paragraph 29 of subsection 150 (1) of the said Act is repealed and the following substituted therefor:

- continuing education 29. establish continuing education courses and classes.

4. Subsection 230 (1) of the said Act is repealed and the following substituted therefor:

- Full-time or part-time teacher (1) A full-time or part-time teacher who is employed by a board and who is not an occasional teacher, a continuing education teacher or a continuing education instructor shall be employed as a permanent or a probationary teacher.

5. The said Act is amended by adding thereto the following section:

- Continuing education teachers **230a.**—(1) A continuing education teacher shall be employed on a contract of employment in writing in the form of the continuing education teacher's contract prescribed by the regulations.

- Application of subs. (1) (2) Subsection (1) does not apply to an occasional teacher who is employed as a substitute for a continuing education teacher.

- Contract (3) A continuing education teacher's contract shall be signed by the parties and sealed with the seal of the board before or after the teacher enters upon the duties of the teacher.

6.—(1) Section 231 of the said Act is amended by adding thereto the following subsection:

- School days and school year (1a) In subsection (1), a reference to school days in respect of a continuing education teacher shall be deemed to be a reference to the days upon which the class taught by the teacher is required to be taught and a reference to a school year is deemed to be a reference to the number of days during which the program of which the class is a part is scheduled by the board.

- (2) Subsection 231 (7) of the said Act is amended by,

- (a) inserting after “section 230” in the sixth line “or no contract has been entered into under section 230a”; and
- (b) inserting after “writing” in the eighth line “or a contract”.

7. This Act comes into force on the day it receives Royal Assent. Commence-
ment

8. The short title of this Act is the *Education Amendment Act, 1987*. Short title

CA20N

XB

-B56

Bill 70

Government Bill

1ST SESSION, 34TH LEGISLATURE, ONTARIO

36 ELIZABETH II, 1987

Bill 70

An Act to amend the Education Act

The Hon. C. Ward
Minister of Education



<i>1st Reading</i>	December 15th, 1987
<i>2nd Reading</i>	January 11th, 1989
<i>3rd Reading</i>	
<i>Royal Assent</i>	

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1.—Subsection 1. A definition of “continuing education teacher” and “continuing education instructor” is added to the Act.

Subsection 2. The definition of “occasional teacher” is amended to enable a teacher who substitutes for a “continuing education teacher” to be included in the definition of an “occasional teacher”.

SECTION 2.—Subsection 1. The amendment adds contracts of continuing education teachers to the list of teacher’s contracts that can be prescribed by regulation.

Subsection 2. The new paragraphs 15a and 15b add the power to make regulations defining continuing education courses and classes and prescribing those continuing education classes and courses that must be taught by a teacher.

SECTION 3. The new paragraph 29 enables boards to provide continuing education courses and classes that will in the future include summer schools.

SECTION 4. The amendment makes it clear that a teacher who is a continuing education teacher, a continuing education instructor or an occasional teacher is not to be employed as a permanent or probationary teacher.

SECTION 5. The new section 230a provides that a teacher employed as a continuing education teacher shall be employed on a continuing education teacher’s contract.

During the 1986-87 school year, it was judicially determined that teachers of certain classes conducted otherwise than as part of the regular school day were required to be employed under a teacher’s contract as prescribed by the regulations. The employment relationship of teachers for such classes is inconsistent with employment on either the probationary or permanent teacher’s contract which were the only contract forms able to be prescribed by regulation. It is now proposed in section 230a that persons who are qualified as teachers who are employed to teach those continuing education courses or classes for which a teacher is required, be employed on a continuing education teacher’s contract.

Where it is not required that a continuing education course or class be taught by a teacher, the person who teaches the course or class is a continuing education instructor, regardless of the qualifications held by the person. Such a person will not be under contract as a continuing education teacher.

SECTION 6.—Subsection 1. A teacher is entitled to receive salary in proportion to the number of school days for which the teacher is employed. Subsection (1a) extends this concept to a continuing education teacher.

Subsection 2. The amendment ensures that the failure of a board to enter into a written contract with a continuing education teacher is not a bar to the teacher’s recovering salary.

Bill 70**1987****An Act to amend the Education Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 1 (1) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1981, chapter 47, section 17, 1982, chapter 20, section 2, 1982, chapter 32, section 1, 1984, chapter 60, section 1, 1986, chapter 21, section 1 and 1988, chapter 27, section 1, is further amended by adding thereto the following paragraphs:

- 6a. “continuing education instructor” means a person employed to provide instruction in a continuing education course or class established in accordance with the regulations other than those courses or classes for which a valid certificate of qualification or a letter of standing as a teacher is required by the regulations;
- 6b. “continuing education teacher” means a teacher employed to teach a continuing education course or class established in accordance with the regulations for which a valid certificate of qualification or a letter of standing as a teacher is required by the regulations.

(2) Paragraph 31 of subsection 1 (1) of the said Act is amended by adding after “probationary” in the second line “, continuing education teacher”.

2.—(1) Paragraph 13 of subsection 10 (1) of the said Act is amended by striking out “permanent teacher or a probationary teacher” in the third line and inserting in lieu thereof “permanent, probationary or continuing education teacher”.

(2) Subsection 10 (1) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 4, is further amended by adding thereto the following paragraphs:

- idem 15a. defining and governing continuing education courses and classes;
- continuing education courses and classes 15b. prescribing the continuing education courses and classes for which a valid certificate of qualification or a letter of standing as a teacher is required.

3. Paragraph 29 of subsection 150 (1) of the said Act is repealed and the following substituted therefor:

- continuing education 29. establish continuing education courses and classes.

4. Subsection 230 (1) of the said Act is repealed and the following substituted therefor:

- Full-time or part-time teacher (1) A full-time or part-time teacher who is employed by a board shall be employed as a permanent or probationary teacher with respect to those teaching duties with the board that are not related to the teacher's employment as an occasional teacher, a continuing education teacher or a continuing education instructor.

5. The said Act is amended by adding thereto the following section:

- Continuing education teachers **230a.**—(1) A continuing education teacher shall be employed on a contract of employment in writing in the form of the continuing education teacher's contract prescribed by the regulations.

- Application of subs. (1) (2) Subsection (1) does not apply to an occasional teacher who is employed as a substitute for a continuing education teacher.

- Contract (3) A continuing education teacher's contract shall be signed by the parties and sealed with the seal of the board before or after the teacher enters upon the duties of the teacher.


- Full-time or part-time teacher and continuing education teacher (4) A teacher who is employed by a board as a continuing education teacher may be employed by another board as a full-time or part-time teacher.

- Permanent or probationary teacher and continuing education teacher (5) Notwithstanding subsection (1), where a teacher and a board agree, a full-time or part-time teacher who is employed by the board as a permanent teacher and as a continuing education teacher or as a probationary teacher and a continuing education teacher may be employed under the teacher's con-

tract as a permanent teacher or probationary teacher, as the case requires.

(6) Notwithstanding subsection (1), where a teacher and a board agree, a teacher employed by the board as a permanent teacher or as a probationary teacher with duties only as a continuing education teacher may be employed with respect to those duties under the teacher's contract as a permanent teacher or as a probationary teacher, as the case requires.

Permanent or probationary teacher as continuing education teacher only

 **6.—(1) Section 231 of the said Act is amended by adding thereto the following subsection:**

(1a) In subsection (1), a reference to school days in respect of a continuing education teacher shall be deemed to be a reference to the days upon which the class taught by the teacher is required to be taught and a reference to a school year is deemed to be a reference to the number of days during which the program of which the class is a part is scheduled by the board.

School days and school year

(2) Subsection 231 (7) of the said Act is amended by,

- (a) inserting after “section 230” in the sixth line “or no contract has been entered into under section 230a”;**
and
- (b) inserting after “writing” in the eighth line “or a contract”.**

7. This Act comes into force on the 1st day of May, 1989.

Commence-
ment

8. The short title of this Act is the *Education Amendment Act, 1989*.

Short title

Bill 70

(Chapter 2
Statutes of Ontario, 1989)

An Act to amend the Education Act

The Hon. C. Ward
Minister of Education



<i>1st Reading</i>	December 15th, 1987
<i>2nd Reading</i>	January 11th, 1989
<i>3rd Reading</i>	February 23rd, 1989
<i>Royal Assent</i>	February 27th, 1989

Bill 70**1987****An Act to amend the Education Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 1 (1) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1981, chapter 47, section 17, 1982, chapter 20, section 2, 1982, chapter 32, section 1, 1984, chapter 60, section 1, 1986, chapter 21, section 1 and 1988, chapter 27, section 1, is further amended by adding thereto the following paragraphs:

- 6a. “continuing education instructor” means a person employed to provide instruction in a continuing education course or class established in accordance with the regulations other than those courses or classes for which a valid certificate of qualification or a letter of standing as a teacher is required by the regulations;
- 6b. “continuing education teacher” means a teacher employed to teach a continuing education course or class established in accordance with the regulations for which a valid certificate of qualification or a letter of standing as a teacher is required by the regulations.

(2) Paragraph 31 of subsection 1 (1) of the said Act is amended by adding after “probationary” in the second line “, continuing education teacher”.

2.—(1) Paragraph 13 of subsection 10 (1) of the said Act is amended by striking out “permanent teacher or a probationary teacher” in the third line and inserting in lieu thereof “permanent, probationary or continuing education teacher”.

(2) Subsection 10 (1) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 4, is further amended by adding thereto the following paragraphs:

idem

15a. defining and governing continuing education courses and classes;

continuing
education
courses and
classes

15b. prescribing the continuing education courses and classes for which a valid certificate of qualification or a letter of standing as a teacher is required.

3. Paragraph 29 of subsection 150 (1) of the said Act is repealed and the following substituted therefor:

continuing
education

29. establish continuing education courses and classes.

4. Subsection 230 (1) of the said Act is repealed and the following substituted therefor:

Full-time or
part-time
teacher

(1) A full-time or part-time teacher who is employed by a board shall be employed as a permanent or probationary teacher with respect to those teaching duties with the board that are not related to the teacher's employment as an occasional teacher, a continuing education teacher or a continuing education instructor.

5. The said Act is amended by adding thereto the following section:

Continuing
education
teachers

230a.—(1) A continuing education teacher shall be employed on a contract of employment in writing in the form of the continuing education teacher's contract prescribed by the regulations.

Application
of subs. (1)

(2) Subsection (1) does not apply to an occasional teacher who is employed as a substitute for a continuing education teacher.

Contract

(3) A continuing education teacher's contract shall be signed by the parties and sealed with the seal of the board before or after the teacher enters upon the duties of the teacher.

Full-time or
part-time
teacher and
continuing
education
teacher

(4) A teacher who is employed by a board as a continuing education teacher may be employed by another board as a full-time or part-time teacher.

Permanent or
probationary
teacher and
continuing
education
teacher

(5) Notwithstanding subsection (1), where a teacher and a board agree, a full-time or part-time teacher who is employed by the board as a permanent teacher and as a continuing education teacher or as a probationary teacher and a continuing education teacher may be employed under the teacher's con-

tract as a permanent teacher or probationary teacher, as the case requires.

(6) Notwithstanding subsection (1), where a teacher and a board agree, a teacher employed by the board as a permanent teacher or as a probationary teacher with duties only as a continuing education teacher may be employed with respect to those duties under the teacher's contract as a permanent teacher or as a probationary teacher, as the case requires.

Permanent or
probationary
teacher as
continuing
education
teacher only

6.—(1) Section 231 of the said Act is amended by adding thereto the following subsection:

(1a) In subsection (1), a reference to school days in respect of a continuing education teacher shall be deemed to be a reference to the days upon which the class taught by the teacher is required to be taught and a reference to a school year is deemed to be a reference to the number of days during which the program of which the class is a part is scheduled by the board.

School days
and school
year

(2) Subsection 231 (7) of the said Act is amended by,

- (a) inserting after "section 230" in the sixth line "or no contract has been entered into under section 230a"; and
- (b) inserting after "writing" in the eighth line "or a contract".

7. This Act comes into force on the 1st day of May, 1989.

Commence-
ment

8. The short title of this Act is the *Education Amendment Act, 1989*.

Short title

CALPH
XB
-856

Publication

Bill 71

Private Member's Bill

1ST SESSION, 34TH LEGISLATURE, ONTARIO

36 ELIZABETH II, 1987

Bill 71

An Act to amend the Occupational Health and Safety Act

Mr. Rae



<i>1st Reading</i>	December 15th, 1987
<i>2nd Reading</i>	
<i>3rd Reading</i>	
<i>Royal Assent</i>	

EXPLANATORY NOTES

The purpose of the Bill is to provide greater protection for the health and safety of workers. Persons who were formerly excluded from the protection of the Act would now be covered by the repeal of subsections 3 (2) and (3), 8 (1), 23 (1) and (2).

SECTION 2. This section makes substantial changes to section 8 of the Act to give increased powers to the health and safety committee which would be composed of a majority of worker representatives.

SECTION 3. This amendment sets out in detail the nature of information that must be provided by the Director.

SECTION 4. This amendment clarifies that any protective equipment, material or devices must be provided at the expense of the employer.

SECTION 5. This section makes substantial changes to section 15 of the Act to impose increased duties on an employer in respect of health and safety matters.

SECTION 6. These amendments to section 23 of the Act provide greater protection for the worker when faced with a threat to his or her safety or health.

SECTION 7. The effect of this amendment is to permit a union representative, a worker health and safety representative or any interested person to file a complaint where there has been a reprisal against a worker. At present, only the worker may file a complaint.

SECTION 8. This amendment would designate an inspector as a provincial offences officer in respect of certain specified violations of the Act.

SECTION 9. This amendment increases the regulation-making powers of the Lieutenant Governor in Council.

Bill 71

1987

**An Act to amend the
Occupational Health and Safety Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 3 (2) and (3) of the *Occupational Health and Safety Act*, being chapter 321 of the Revised Statutes of Ontario, 1980, are repealed.

2.—(1) Subsection 8 (1) of the said Act is repealed.

(2) Subsection 8 (5) of the said Act is amended by striking out “two persons of whom at least half” in the first and second lines and inserting in lieu thereof “three persons of whom the majority”.

(3) Subsection 8 (6) of the said Act is repealed and the following substituted therefor:

- (6) It is the function of a committee and it has power to, Powers of
committee
- (a) identify situations that may be a threat to the health or safety of workers and require an owner, constructor or employer to take adequate measures to remove the threat;
 - (b) conduct tests as to the work place conditions at the expense of the employer;
 - (c) hire independent agencies to conduct tests as to the work place conditions at the expense of the employer but any such agents shall be accompanied by a worker health and safety representative or a worker member of the health and safety committee;
 - (d) approve any machinery, chemicals or innovations before they are introduced into the work place;

- (e) approve all protective devices used or worn in the work place by the workers;
- (f) conduct all assessments and develop all control programs that may be required in regulations related to designated substances;
- (g) establish programs to educate and train workers in health and safety procedures;
- (h) upon the request of the workers, establish a voluntary medical monitoring program to be accompanied by work place monitoring at the expense of the employer;
- (i) obtain information from the constructor or employer respecting,
 - (i) the identification of potential or existing hazards of materials, processes or equipment, and
 - (ii) health and safety experience and work practices and standards in similar or other industries of which the constructor or employer has knowledge.

(4) Subsection 8 (8) of the said Act is amended by striking out “not more often than” in the third and fourth lines and inserting in lieu thereof “at least”.

(5) Subsection 8 (9) of the said Act is repealed and the following substituted therefor:

Power to
inspect

(9) The members of a committee who represent workers shall designate one or more such members to investigate cases where a dangerous situation has been reported by a worker or where a worker is killed or injured at a work place from any cause and one of those members may, subject to subsection 25 (2), inspect the place where the accident occurred and any machine, device or thing, and shall report his or her findings to a Director and to the committee.

(6) Subsection 8 (12) of the said Act is repealed and the following substituted therefor:

Time off
for duties

(12) A member of a committee is entitled to such time from work as is necessary to perform and discharge his or her duties under this Act including but not limited to,

- (a) collecting data;
- (b) taking test samples;
- (c) preparing for and attending committee meetings;
- (d) inspecting documents;
- (e) attending training sessions; and
- (f) investigating worker complaints and work place accidents,

and the time so spent shall be deemed to be work time for which the worker is paid at the regular or premium rate, as applicable.

(7) Subsection 8 (13) of the said Act is repealed and the following substituted therefor:

(13) No committee dealing with occupational health and safety issues shall be established or continued in a work place unless, Other committees

- (a) the committee consists of at least two persons of whom at least half shall be workers who do not exercise managerial functions to be selected by the workers they are to represent or, where there is a trade union or trade unions representing such workers, by the trade union or trade unions;
- (b) the approval of the joint health and safety committee is obtained; and
- (c) the committee takes its directions from and reports to the health and safety committee.

(8) Section 8 of the said Act is amended by adding thereto the following subsection:

(15) Employers, supervisors and workers shall answer all questions and provide any information required for the purpose of carrying out an investigation under subsection (9). Duties during investigation

3. Section 9 of the said Act is amended by adding thereto the following subsection:

(4) The information referred to in subsection (3) includes all government-conducted tests, studies, reports and correspondence related to work place health and safety. Nature of information

4. Clause 14 (1) (a) of the said Act is repealed and the following substituted therefor:

- (a) the equipment, materials and protective devices as prescribed are provided at the expense of the employer.

5.—(1) Subsection 15 (1) of the said Act is amended by striking out “and” at the end of clause (h) and by adding thereto the following clauses:

- (j) provide, at the employer’s expense, office space, equipment and clerical assistance to enable the health and safety committee to carry out their functions;
- (k) provide, at the employer’s expense, at least one week per year time off for worker representatives and worker members of the health and safety committee to receive training in occupational health and safety measures;
- (l) provide, at the employer’s expense and during working hours, the opportunity for probationary workers to receive education and training in health and safety by a worker representative; and
- (m) bear the cost of any medical monitoring program including compensating a worker for the time spent visiting his or her doctor and any expense incurred in the course of the visit.

(2) Section 15 of the said Act is amended by adding thereto the following subsections:

Reassignment

(3) An employer shall ensure that a worker does not suffer any wage loss as a result of being reassigned other duties for health reasons.

Alternative
work

(4) Where a reassignment is not possible, an employer shall, at the employer’s expense, retrain workers and find them alternative work elsewhere and make up for any wage loss that results from such transfer.

6.—(1) Subsection 23 (1), as amended by the Statutes of Ontario, 1984, chapter 55, section 224, and subsection (2) of the said Act are repealed.

(2) Subsection 23 (3) of the said Act is repealed and the following substituted therefor:

(3) A worker may refuse to work or do particular work where the worker has reason to believe that his or her health or safety or that of any person is in danger for whatever cause.

Refusal
to work

(3) Section 23 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 55, section 224, is further amended by adding thereto the following subsection:

(5a) A worker representative on the health and safety committee may,

Powers of
worker
representa-
tives

(a) exercise, on behalf of the worker, his or her right to refuse to work under dangerous conditions; and

(b) order that unsafe operations be shut down where it appears that the health or safety of a worker is threatened.

(4) Subsection 23 (6) of the said Act is repealed and the following substituted therefor:

(6) Where, following the investigation or any steps taken to deal with the circumstances that caused the worker to refuse to work or do particular work, the worker has reasonable grounds to believe that his or her health or safety continues to be endangered for whatever cause, the worker may refuse to work or do the particular work and the employer or worker or a person on behalf of the employer or worker shall notify an inspector thereof.

Refusal to
work after
investigation

(5) Section 23 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 55, section 224, is further amended by adding thereto the following subsections:

(6a) All workers affected by a work stoppage under this section are entitled to full wages and benefits during the work stoppage.

Wages
payable
during work
stoppage

(6b) Any loss of production or revenue that results from a work stoppage under this section shall be borne by the employer.

Loss from
work
stoppage

7. Subsection 24 (2) of the said Act is amended by inserting after “worker” in the first line “union representative, worker health and safety representative, or any interested party”.

8. Section 28 of the said Act, as amended by the Statutes of Ontario, 1987, chapter 29, section 4, is further amended by adding thereto the following subsection:

Inspector
designated
provincial
offences
officer
R.S.O. 1980,
c. 400

(1a) An inspector is designated as a provincial offences officer under the *Provincial Offences Act* and may issue a certificate of offence under that Act in respect of the following offences, namely,

- (a) failure to establish a health and safety committee under subsection 8 (2);
- (b) failure to post a copy of this Act as required under clause 14 (2) (h); or
- (c) failure to provide the information required under clause 8 (6) (i) or the report required under section 25 or 26.

9. Subsection 41 (2) of the said Act, amended by the Statutes of Ontario, 1987, chapter 29, section 7, is further amended by adding thereto the following paragraphs:

- 25. establishing time limits for an employer to comply with recommendations made by the health and safety committee;
- 26. prescribing a code of practice respecting the procedure of a health and safety committee;
- 27. establishing a joint committee composed of representatives of management and labour to recommend changes to the regulations.

Commence-
ment

10. This Act comes into force on the day it receives Royal Assent.

Short title

11. The short title of this Act is the *Occupational Health and Safety Amendment Act, 1987*.

Bill 72

An Act respecting Simcoe Day



Mr. McLean

1st Reading December 15th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to name any public holiday proclaimed in a municipality on the third Monday in February, Simcoe Day.

Bill 72**1987****An Act respecting Simcoe Day**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.** Where the third Monday in February in any year is proclaimed a public holiday in a municipality, the name of the holiday shall be Simcoe Day. Simcoe Day
- 2.** Any Act, regulation, proclamation, contract or document that refers to a public holiday on the third Monday in February shall be deemed to refer to Simcoe Day. Other references
- 3.** This Act comes into force on the day it receives Royal Assent. Commencement
- 4.** The short title of this Act is the *Simcoe Day Act, 1987*. Short title

Bill 73

An Act to amend the Public Service Superannuation Act

Mr. McLean



1st Reading December 15th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to suspend superannuation allowances while a person entitled thereto is receiving any salary, fee or compensation from the Province of Ontario.

Bill 73

1987

**An Act to amend the
Public Service Superannuation Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Public Service Superannuation Act*, being chapter 419 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

44. A superannuation allowance under this Act shall be suspended while the person entitled thereto,

Suspension
of super-
annuation
allowance

(a) is a member of any commission, board, committee or other body holding office at the nomination of the Lieutenant Governor in Council for which any salary, fee or compensation is paid; or

(b) is employed in the public service.

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Public Service Superannuation Amendment Act, 1987*.

Short title

Bill 74

An Act to amend the Legislative Assembly Retirement Allowances Act



Mr. McLean

1st Reading December 15th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to suspend retirement allowances while a person entitled thereto is receiving compensation for acting as a member of a board, commission or other body holding office at the nomination of the Lieutenant Governor in Council.

Bill 74

1987

**An Act to amend the
Legislative Assembly Retirement Allowances Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Legislative Assembly Retirement Allowances Act*, being chapter 236 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

33. An allowance under this Act shall be suspended while the person entitled thereto is a member of any commission, board, committee or other body holding office at the nomination of the Lieutenant Governor in Council for which any salary, fee or compensation is paid.

Suspension
of
allowance

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Legislative Assembly Retirement Allowances Amendment Act, 1987*.

Short title

Bill 75

An Act to establish the Municipal Council Retirement Fund and to provide Retirement Allowances to Municipal Councillors

Mr. Cureatz



1st Reading December 15th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill establishes a retirement allowance fund to provide pensions to municipal councillors in respect of their service as councillors. Persons who are municipal councillors when or after this Act comes into force are removed from the operation of the *Municipal Employees Retirement System Act*.

Bill 75**1987**

**An Act to establish the Municipal Council
Retirement Fund and to provide Retirement
Allowances to Municipal Councillors**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“allowance” means an allowance under this Act;

“benefit” means allowance, refund or other payment that may be payable in accordance with this Act;

“Board” means the Municipal Council Retirement Board;

“councillor” means a person who is a member of a council of a municipality;

“employer” means a municipality or local board or an association of municipalities or local boards;

“Fund” means the Municipal Council Retirement Fund;

“indemnity” means the annual remuneration payable to a person as a councillor under the *Municipal Act*;

R.S.O. 1980,
c. 302

“Minister” means the Treasurer of Ontario and Minister of Economics;

“municipality” includes a metropolitan, regional and district municipality and the County of Oxford;

“service” means service as a councillor for which indemnity was paid;

“spouse” means either of a man and woman who,

(a) are married to each other,

- (b) have together entered into a marriage that is voidable or void, in good faith on the part of the person asserting a right under this Act,
- (c) are not married to each other and have cohabited continuously for a period of not less than three years, or
- (d) are not married to each other and have cohabited in a relationship of some permanence, if they are the natural or adoptive parents of a child.

Application
of Act

2. This Act applies to a person who is a councillor on or after the day this Act comes into force.

Board
established

3.—(1) The Municipal Council Retirement Board is established as a corporation and the management and administration of the Fund are vested in the Board.

Rights,
powers,
duties of
Board
R.S.O. 1980,
c. 348

(2) The rights, powers and duties of the Board shall be the same as those of the Ontario Municipal Employees Retirement Board as set out in subsections 4 (2) to (8) of the *Ontario Municipal Employees Retirement System Act*, with necessary modifications.

Fund
established

4.—(1) The Municipal Council Retirement Fund is established for the payment of benefits to councillors and their surviving spouses and children in accordance with this Act.

What Fund
to include

(2) The Fund shall include the cash, investments and other assets and the liabilities and the reserves of the Board.

Deposits in
Fund

(3) The contributions of the employers and the councillors, the income from investments and any other credits of the Board shall be deposited in the Fund.

Payments out
of Fund

(4) The benefits and the expenses of the Board shall be paid out of the Fund.

Auditor's
report

5. The auditor appointed by the Board shall audit the transactions of the Board and shall make a report to the Board on the annual financial statement of the Fund and give an opinion in the report as to whether the annual financial statement presents fairly the financial position of the Fund and the results of its operation for the year.

Actuarial
valuation

6.—(1) The actuary appointed by the Board shall make an actuarial study and valuation of the assets and liabilities of the Fund as required by the Board, but not less frequently than at three-year intervals and shall report thereon to the Board and

shall make such recommendations to the Board as the actuary considers advisable for the proper management and administration of the Fund.

(2) The report to the Board shall include a statement of the actuarial assumptions used by the actuary in the preparation of the valuation mentioned in subsection (1). Idem

7.—(1) In each year, the Minister and the Board shall agree upon and the Lieutenant Governor in Council shall approve the amount of the money accumulated to the credit of the Fund that is not required for current expenditures and such amount shall be retained by the Board to be invested as set out in subsection (2). Money retained by the Board

(2) The money retained by the Board under subsection (1) shall form part of the Fund and the Board shall invest such part of the Fund as pension fund moneys subject to the limitations of the *Pension Benefits Act, 1987* and for the purposes of that Act, such part of the Fund shall be treated as a separate pension fund. Money retained to be invested
1987, c. 35

8.—(1) An amount equal to 6 per cent of the indemnity payable to a councillor shall be deducted from the indemnity as the councillor's contribution under this Act. Current contributions

(2) Despite subsection (1), contributions under this section shall not be deducted from the indemnity of a councillor after the total amount contributed by the councillor is sufficient to provide an allowance equal to the amount of his or her indemnity. Maximum contributions

9.—(1) A councillor who has contributed in respect of three or more years of service and who has attained the age of fifty-five years is entitled to an annual allowance during his or her lifetime upon ceasing to be a councillor. Eligibility for allowance

(2) A person who is otherwise eligible for an allowance under this section and has not attained the age of fifty-five years may elect to take an allowance under subsection (3) at age fifty-five or an immediate allowance of a reduced amount under subsection (4). Idem

(3) Subject to subsection 14 (3), the amount of a person's annual allowance under this section shall be an amount equal to 75 per cent of the total of his or her contributions as a councillor, but the amount of the allowance shall not exceed the amount of his or her indemnity. Calculation of allowance at age 55

Calculation
of allowance
under age 55

(4) Where a person who is otherwise eligible for an allowance under this section, but has not attained the age of fifty-five years, elects to take an immediate allowance of a reduced amount, the amount of the allowance shall be calculated under subsection (3) and shall then be reduced actuarially in accordance with the tables prescribed by the regulations.

Suspension of
allowance

10.—(1) An allowance under section 9 shall be suspended while the person entitled thereto is a councillor.

Recalculation
of allowance

(2) Where a person whose allowance has been suspended under subsection (1) again ceases to be a councillor, the person's allowance shall be recalculated under section 9 having regard to any additional service as a councillor performed while the allowance was suspended.

Spouse's
allowance

11.—(1) Where a former councillor who is receiving an allowance dies leaving a spouse, the spouse shall be paid during the spouse's lifetime an allowance equal to,

- (a) 60 per cent of the allowance that the former councillor was receiving at the date of his or her death; and
- (b) in respect of each child under the age of eighteen years, to a maximum of three children of the former councillor, 10 per cent of the allowance that the former councillor was receiving at the date of his or her death.

Children's
allowance

(2) Where a former councillor who is receiving an allowance dies leaving no spouse but leaving a child or children under the age of eighteen years, an allowance equal to the allowance that would have been paid to the spouse of the former councillor under subsection (1) if the spouse had survived the former councillor shall be paid to or for the child or children until such age is attained.

Computation
of allowance

(3) Where a councillor dies leaving a spouse, the spouse shall be paid during the spouse's lifetime an allowance equal to the greater of,

- (a) an amount equal to 25 per cent of the annual indemnity of the councillor in effect immediately before his or her death; or
- (b) an amount equal to,

- (i) 60 per cent of the allowance that the councillor had earned to the date of his or her death, and
- (ii) in respect of each of not more than three children of the councillor under the age of eighteen years, 10 per cent of the allowance that the councillor had earned to the date of his or her death.

(4) The allowance under subsection (3) shall be computed in the manner provided in section 9 but based on the councillor's service to the time of his or her death. Idem

(5) Where the spouse dies leaving a child or children of the former councillor who at the date of the death of the spouse is or are under the age of eighteen years, an allowance equal to that paid or that would be paid to the spouse under subsection (3) shall be paid to or for the child or children until such age is attained. Idem

(6) Where a councillor dies leaving no spouse but leaving a child or children under the age of eighteen years, an allowance equal to the allowance that would have been paid to the spouse of the councillor under subsection (3) if the spouse had survived the councillor shall be paid to or for the child or children until such age is attained. Idem

(7) The spouse, Option

- (a) of a person who had elected under section 9 to take a deferred allowance at age fifty-five but who died before attaining such age; or
- (b) of a person who was eligible to make an election to take a deferred or an immediate allowance under section 9 but died before making the election,

at any time may elect to take a deferred allowance or an immediate allowance.

(8) If the spouse elects to take a deferred allowance under subsection (7), the spouse's allowance shall commence on the day that the person would have attained the age of fifty-five years had he or she lived, shall be paid during the spouse's lifetime and shall equal, Deferred allowance

- (a) 60 per cent of the allowance to which the person would have been entitled at that time; and

- (b) in respect of each child under the age of eighteen years, to a maximum of three children of the person, 10 per cent of the allowance to which the person would have been entitled at that time.

Immediate allowance

(9) If the spouse elects to take an immediate allowance under subsection (7), the spouse shall be paid during the spouse's lifetime an allowance equal to the amount calculated in accordance with clauses (8) (a) and (b) reduced actuarially in accordance with the tables prescribed by the regulations, which the person would have been entitled to receive at the time of the spouse's election.

Idem

(10) Where a person referred to in clause (7) (a) or (b) dies leaving no spouse but leaving a child or children under the age of eighteen years, an allowance equal to the immediate allowance provided for in subsection (9) reduced actuarially in accordance with the tables prescribed by the regulations for the purposes of subsection (9) shall be paid to or for the child or children until such age is attained.

Exception for higher education

(11) For the purposes of this section, a person who has attained the age of eighteen years shall be deemed not to have attained that age if since attaining that age the person has been continuously in full-time attendance at either or both of,

- (a) a secondary school; or
- (b) for five years following secondary school, a post-secondary educational institution that is recognized as such by the Board.

Refunds

12.—(1) A person who makes contributions under this Act and who ceases to be a councillor before being eligible for an allowance is entitled to a refund of an amount equal to the amount of his or her contributions with interest thereon at the rate of 6 per cent per annum and, in the event of his or her death, the same refund shall be paid to his or her personal representative.

Idem

(2) Where a person who is in receipt of an allowance dies and no person becomes entitled to an allowance under section 11, a refund shall be paid to his or her personal representative equal to the amount of the difference between the amount of the person's contributions with interest thereon at the rate of 6 per cent per annum up to the time the person commenced to receive the allowance and the amount of the allowance paid to the person up to the time of his or her death.

(3) A refund under subsection (1) shall be made only after the Board receives an application therefor in writing from the former contributor or his or her personal representative.

Application

13. A person who has received a refund under subsection 12 (1) and who again becomes eligible to contribute under this Act may pay to the Board the amount of the refund with interest at the rate of 6 per cent per annum and thereupon he or she is entitled to credit for the amount so paid.

Reinstatement
after refunds

14.—(1) Where a councillor was, before this Act comes into force, a member of the Ontario Municipal Employees Retirement System under the *Ontario Municipal Employees Retirement System Act*, an amount of money that is determined in accordance with the regulations shall be transferred to the Fund from the Ontario Municipal Employees Retirement Fund under that Act and thereupon the councillor is entitled to credit for the contributions so transferred.

Prior service

R.S.O. 1980,
c. 348

(2) A councillor who was not, before this Act comes into force, a member of the Ontario Municipal Employees Retirement System under the *Ontario Municipal Employees Retirement System Act* may elect to contribute to the Fund in respect of his or her prior service in accordance with the regulations.

Idem

R.S.O. 1980,
c. 348

(3) A councillor for whom a transfer under subsection (1) is made shall be entitled to receive an allowance under section 9 in respect of the councillor's service before this Act comes into force that is not less than the pension which he or she would have been entitled to receive under the *Ontario Municipal Employees Retirement System Act*.

Minimum
allowance on
transfer

15. The Minister, for the purpose of increasing from time to time allowances being paid under this Act, may by order with the approval of the Board provide for the payment of supplementary benefits to persons receiving allowances under this Act and prescribe the amounts of such benefits, the times at which they shall be paid and the classes of persons entitled thereto.

Increase
allowances

16.—(1) The contributions of the employers shall be such an amount as is required, in addition to the contributions of the councillors and the interest earned by the Fund, to provide for the payment of expenses, allowances and supplementary benefits under this Act.

Contributions
of employers

(2) Employers shall make no payments or contributions in respect of councillors under the *Ontario Municipal Employees Retirement System Act*.

Idem

Recipients of allowances, etc., not disqualified
R.S.O. 1980, c. 302

17. Despite anything in the *Municipal Act* or any other Act, the application of this Act to a person does not render the person ineligible as a member of a municipal council or disqualify the person from sitting and voting therein.

Regulations

18. The Lieutenant Governor in Council may make regulations,

- (a) prescribing the composition of the Board and the appointment of the members of the Board;
- (b) governing the operation and administration of the Board including the powers and duties of the officers and employees of the Board;
- (c) governing the administration of the Fund including the receipt, deposit and payment of all moneys of the Fund, the borrowing of such sums as are necessary and the procedures for the determination of allowances;
- (d) requiring employers to pay to the Fund the contributions of employers and councillors and to pay interest at a prescribed rate on amounts of contributions that are overdue and unpaid;
- (e) prescribing the terms and conditions upon which allowances in respect of prior service may be provided;
- (f) governing the transfer to or from the Fund of allowance entitlement;
- (g) prescribing tables for the purposes of subsections 9 (4), 11 (9) and (10);
- (h) providing for supplementary benefits and prescribing the terms and conditions upon which such supplementary benefits may be provided.

Commence-
ment

19. This Act comes into force on the day it receives Royal Assent.

Short title

20. The short title of this Act is the *Municipal Council Retirement Allowances Act, 1987*.

Bill 76

An Act to amend the Education Act and certain other Acts related to Education

The Hon. C. Ward
Minister of Education



1st Reading December 16th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The purpose of the Bill is to change the basis of trustee distribution from property assessment to representation by population.

The principal sections of the Act that deal with trustee representation are repealed and a new Part VII-A is enacted so as to bring all the sections together in one place.

Amendments are also made to certain Acts that establish the various regional municipalities and to the *County of Oxford Act* to ensure that the Acts are consistent with the new Part.

Some features of the new Part are as follows:

1. The total size of a board is based on the sum of the populations of electoral groups (i.e. electors, supporters and their dependants) to be represented on the board. This total population then determines in a uniform manner the number of members that will comprise the board.
2. The number of members that will comprise the board is distributed among the electoral groups of the board based on the proportion that each group's population is of the total population of all electoral groups of the board.
3. The Bill preserves the minimum guaranteed representation of three members for minority language sections already in the Act.
4. The minimum number of members on a board will be eight members and the maximum twenty-five.
5. The new provisions will apply equally to all divisional boards, urban separate school boards and county and district combined separate school boards.

Bill 76

1987

An Act to amend the Education Act and certain other Acts related to Education

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 37 of subsection 1 (1) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

37. “population” means the population as determined by the latest enumeration taken under subsection 14 (1) of the *Assessment Act*.

R.S.O. 1980,
c. 31

2. Section 10 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 4, 1984, chapter 60, section 4 and 1986, chapter 64, section 12, is further amended by adding thereto the following subsections:

(2) The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing the persons who shall make the determinations that are required to be made under subsections 206a (5) and (7) and the distribution that is required to be made under subsection 206a (11) and the manner in which and the time by which they shall be made;
- (b) governing the distribution of information that relates to the determinations that are required to be made under subsections 206a (5) and (7) and distributions that are required to be made under subsection 206a (11) and information that relates to appeals and applications with respect to such determinations and distributions;

- (c) governing the nomination procedures for the election of members to boards from areas composed of two or more municipalities;
- (d) prescribing the duties to be performed by the clerks of the municipalities referred to in clause (c) and by the secretaries of boards in respect of nominations and elections.

Consistency
with
*Municipal
Elections Act*
R.S.O. 1980,
c. 308

(2a) A regulation made under clause (2) (c) or (d) shall not be inconsistent with the *Municipal Elections Act* except to the extent necessary to ensure that the nominations and the election referred to in those clauses are carried out in an efficient and orderly manner.

3. Subsection 53 (4) of the said Act is amended by striking out “pursuant to subsection 59 (9)” in the fifth line and inserting in lieu thereof “under subsection 206a (12)”.

4. Subsection 54 (1) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 15, is further amended by adding thereto the following clause:

- (b) provide for the continuation of representation when a municipality is detached from one school division and added to another.

5.—(1) Subsection 55 (1) of the said Act is amended by striking out “sections 52 to 59” in the third and fourth lines and inserting in lieu thereof “sections 52 to 56, section 136i, and Parts VII-A and XI-A”.

(2) Subsection 55 (4) of the said Act is amended by inserting after “board” in the first line “other than a member of a French-language or English-language section”.

6. Subsections 56 (4), (5), (6), (7) and (8) of the said Act are repealed.

7. Sections 57 and 58 of the said Act are repealed.

8. Section 59 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 16 and 1984, chapter 60, section 6, is repealed.

9. Section 61 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 17, is repealed.

10. Subsection 83 (6) of the said Act is repealed.

11. Subsection 88 (3) of the said Act is amended by striking out “section 90 or 100” in the eighth line and inserting in lieu thereof “section 100 or subsection 206a (6)”.

12. Subsection 90 (1), as amended by the Statutes of Ontario, 1982, chapter 32, section 27, and subsections 90 (2) and (3) of the said Act are repealed.

13. Section 91 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 28, is repealed.

14. Section 92 of the said Act is repealed.

15.—(1) Subsection 103 (4) of the said Act is amended by striking out “section 90” in the fifth line and inserting in lieu thereof “subsection 206a (6)”.

(2) Subsection 103 (7) of the said Act is amended by striking out “subsection 113 (21)” in the fifth line and inserting in lieu thereof “subsection 206a (12)”.

16.—(1) Subsection 105 (2) of the said Act is amended by adding thereto the following clause:

- (d) provide for the continuation of representation when a municipality is detached from one combined school zone and added to another.

(2) Subsection 105 (4) of the said Act is amended by striking out “sections 113 to 115” in the last line and inserting in lieu thereof “sections 115 and 206a”.

17. Subsection 106 (2) of the said Act is repealed.

18. Subsections 110 (4), (5), (6), (7) and (8) of the said Act are repealed.

19. Subsection 112 (3) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 47, section 18, is repealed.

20. Section 113 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 37 and 1984, chapter 60, section 7, is repealed.

21. Subsection 115 (1) of the said Act is amended by inserting after “sections 105 to 118” in the third line “and section 206a”.

22.—(1) Subsection 116 (1) of the said Act is amended by inserting after “sections 105 to 118” in the third line “and section 206a”.

(2) Subsection 116 (2) of the said Act is amended by striking out “and shall consist of sixteen trustees” in the third and fourth lines.

(3) Subsections 116 (3), (4), (5) and (6) of the said Act are repealed.

23. The said Act is amended by adding thereto the following Part:

PART VII-A

TRUSTEE REPRESENTATION

Public and Separate School Boards

Definitions

206a.—(1) In this Part,

“board” means a divisional board, an urban separate school board, a district combined separate school board or a county combined separate school board;

“coterminous Roman Catholic separate school board” means a Roman Catholic separate school board that has jurisdiction in an area that is also the area or part of the area of jurisdiction of a divisional board;

“electoral group” of a board means a category of persons that reside within the area of jurisdiction of the board;

“public school electoral group” means the electoral group that comprises exclusively persons who are public school supporters or public school electors and includes the dependants of the public school supporters and public school electors;

“public school English-language electoral group” means the part of the public school electoral group that comprises exclusively persons who are not members of the public school French-language electoral group;

“public school French-language electoral group” means the part of the public school electoral group that comprises exclusively persons who have the right under subsection 23 (1) or (2), without regard to subsection 23 (3) of the *Charter of Rights and Freedoms* to have their children

receive their primary and secondary school instruction in the French language in Ontario and who choose to vote only for the members of the French-language component of the board and includes the dependants of these persons;

“public school supporter” means a ratepayer who is not a separate school supporter;

“separate school electoral group” means the electoral group that comprises exclusively persons who are separate school supporters or separate school electors and includes the dependants of the separate school supporters and separate school electors;

“separate school English-language electoral group” means the part of the separate school electoral group that comprises exclusively persons who are not members of the separate school French-language electoral group;

“separate school French-language electoral group” means the part of the separate school electoral group that comprises exclusively persons who are French-speaking ratepayers as defined in Part XI who have the right under subsection 23 (1) or (2), without regard to subsection 23 (3) of the *Charter of Rights and Freedoms*, to have their children receive their primary and secondary school instruction in the French-language in Ontario and who choose to vote only for the members of the French-language component of the board and includes the dependants of these persons;

“total English-language electoral group” means,

- (a) for a divisional board where the coterminous Roman Catholic separate school board is not a Roman Catholic school board, the electoral group comprising the public school English-language electoral group and the separate school English-language electoral group,
- (b) for a divisional board where the coterminous Roman Catholic separate school board is a Roman Catholic school board, the public school English-language electoral group,
- (c) for a separate school board, the separate school English-language electoral group;

“total French-language electoral group” means,

- (a) for a divisional board where the coterminous Roman Catholic separate school board is not a Roman Catholic school board, the electoral group comprising the public school French-language electoral group and the separate school French-language electoral group,
- (b) for a divisional board where the coterminous Roman Catholic separate school board is a Roman Catholic school board, the public school French-language electoral group,
- (c) for a separate school board, the separate school French-language electoral group.

Elections

(2) The election of members of a board shall be conducted by the same officers and in the same manner as the election of members of the council of a municipality.

Change of boundaries

(3) The boundaries of the area of jurisdiction of a board or of a municipality that are to be altered as a result of,

- (a) a regulation made under subsection 54 (1) or 105 (2);
- (b) the establishment of a separate school zone under section 107;
- (c) an order of the Ontario Municipal Board;
- (d) an order of the Lieutenant Governor in Council under the *Municipal Boundary Negotiations Act, 1981*; or
- (e) any other Act,

1981, c. 70

R.S.O. 1980
c. 308

on or before the 1st day of January next following a regular election under the *Municipal Elections Act* shall be deemed, for the purposes of this Part, to have been so altered.

New city

(4) A new city that is to be erected on or before the 1st day of January next following a regular election under the *Municipal Elections Act* shall be deemed, for the purposes of this Part, to have been so erected.

Number of members on a board

(5) Subject to the increased number of members that may result from the application of rules 11, 12 and 13 of subsection (8) and the additional person that may be appointed by the board under section 165 to represent the interests of Indian pupils, the number of members on a board shall be deter-

mined in accordance with subsection (6) by the person prescribed by the regulations.

(6) A determination of the number of members on a board shall be made using the following rules, that shall be applied in order beginning with rule 1:

Rules for determination

- 1. For a public board where the coterminous Roman Catholic separate school board is a Roman Catholic school board, the population of the separate school electoral group shall be deemed to be zero.
- 2. For a separate school board, the population of the public school electoral group shall be deemed to be zero.
- 3. The total population of all electoral groups of the board shall be equal to the sum of the populations of the public school electoral group and the separate school electoral group.
- 4. Subject to rule 5, the total number of members shall be the number of members set out in column 2 of the following table opposite the total population of all electoral groups of the board set out in column 1 of the following table:

TABLE

Column 1	Column 2
Total population of all electoral groups, of the board	Number of members
Less than 4,999 persons	8
5,000 or more, up to and including 8,999 persons	10
9,000 or more, up to and including 14,999 persons	12
15,000 or more, up to and including 49,999 persons	14
50,000 or more, up to and including 115,999 persons	15
116,000 or more, up to and including 182,999 persons	17
183,000 or more, up to and including 282,999 persons	18

283,000 or more, up to and including 482,999 persons	19
483,000 or more persons	20

5. Where,

- i. the total population of all electoral groups of the board is less than 15,000, and
- ii. the whole board approves, by a resolution passed by a two-thirds majority vote of the board in the year immediately preceding a regular election under the *Municipal Elections Act* or before the 1st day of July, 1988, an increase of either one or two to the number of members of the board,

R.S.O. 1980,
c. 308

the number of members shall be deemed to be so increased for the next two subsequent regular elections.

Number of
members for
each electoral
group of a
board

(7) The number of members to be elected at each regular election under the *Municipal Elections Act* by the electors for each of the electoral groups of a board shall be determined in accordance with subsection (8) by the person prescribed by the regulations.

Rules for
determination

(8) A determination referred to in subsection (7) shall be made using the following rules, that shall apply in order starting with rule 1:

- 1. For a public board, where the coterminous Roman Catholic separate school board is a Roman Catholic school board, the population of the separate school electoral group shall be deemed to be zero.
- 2. For a separate school board, the population of the public school electoral group shall be deemed to be zero.
- 3. If the board is not required to establish either a French-language or English-language section under Part XI-A then,
 - i. the population of the public school French-language electoral group shall be added to the population of the public school English-language electoral group and this total popu-

lation shall be deemed to be the population of the public school English-language electoral group for the purposes of the subsequent rules in this subsection,

- ii. the population of the separate school French-language electoral group shall be added to the population of the separate school English-language electoral group and this total population shall be deemed to be the population of the separate school English-language group for the purposes of the subsequent rules in this subsection, and
 - iii. the population of the total French-language electoral group shall be deemed to be zero.
- 4. If the public board is required to establish an English-language section under Part XI-A, a reference in rule 5, 6 or 7 to English-language shall be deemed to be a reference to French-language and a reference to French-language shall be deemed to be a reference to English-language.
 - 5. The number of members to be elected by the electors of the public school English-language electoral group shall be calculated in accordance with the formula set out in subsection (9).
 - 6. The number of members to be elected by the electors of the total French-language electoral group shall be calculated in accordance with the formula set out in subsection (9).
 - 7. The number of members to be elected by the electors of the separate school English-language electoral group shall be calculated in accordance with the formula set out in subsection (9).
 - 8. Where the sum of the number of members obtained using rules 5, 6 and 7 is less than the total number of members determined by the rules in subsection (6), the number of members to be elected by the electors of the electoral group whose number of members calculated under subsection (9) differs from the next lower integer by the greatest amount shall be increased by one.
 - 9. Where the sum of the number of members obtained using rules 5, 6 and 7 is greater than the total num-

ber of members determined by the rules in subsection (6), the number of members to be elected by the electors of the electoral group whose number of members calculated under subsection (9) differs from the next higher integer by the greatest amount shall be decreased by one.

10. Where rule 8 or 9 is applied but cannot operate because the numbers of members calculated under subsection (9) for two or more electoral groups differ from the applicable integers by the same amount, the electoral group that shall have its number of members increased or decreased by one member shall be the largest electoral group.
11. Where the number of members calculated under rule 5 is less than three but greater than zero, then the number of members shall be deemed to be three.
12. Where the number of members calculated under rule 6 is less than three but greater than zero, then the number of members shall be deemed to be three.
13. Where the number of members calculated under rule 7 is less than one but greater than zero, then the number of members shall be deemed to be one.

Calculation
of number
of members
for purposes
of rules 5,
6 and 7

(9) For the purposes of rules 5, 6 and 7 of subsection (8), the number of members shall be calculated using the following formula:

$$\text{number of members} = \frac{a \times b}{c}$$

where a = the total number of members of the board determined by the rules in subsection (6)

b = the population of the electoral group to which the rule applies

c = the total population of all electoral groups of the board determined under rule 3 of subsection (6).

Idem

(10) For the purposes of rules 5, 6 and 7 of subsection (8), the calculation shall be correct to the nearest integer with the fraction one-half being raised to the next higher integer.

(11) After the determinations required under this section are made, a distribution of those members that represent the electors of an electoral group of the board shall be made in accordance with subsection (12) by the person prescribed by the regulations to,

Distribution
of members

- (a) the municipalities or combination of municipalities that comprise the area of jurisdiction of a board; or
- (b) the electoral areas established under subsection (14) or combination of such electoral areas in a municipality.

(12) A distribution shall be made separately for each electoral group for which a distribution is not otherwise provided under section 277i or subsection 277t (3) according to the following rules that shall be applied in order beginning with rule 1.

Rules for
distribution

1. Calculate the electoral quotient for each municipality and electoral area using the following formula:

$$\text{electoral quotient} = \frac{a \times b}{c}$$

where a = the population of the electoral group resident in the municipality or electoral area

b = the total number of members that represents the electors of the electoral group calculated by the rules in subsection (8)

c = the total population of the electoral group.

2. The number of members that represent the electors of the electoral group for a municipality or electoral area shall be as nearly as practicable, its electoral quotient.
3. Two or more adjoining municipalities or two or more adjoining electoral areas within a municipality may be combined so that the sum of the electoral quotients of the municipalities or electoral areas so combined is as nearly as practicable an integer.
4. The number of members that represent the electors of the electoral group for a combination of municipi-

palities or for a combination of electoral areas within a municipality shall be as nearly as practicable, its electoral quotient.

Election by
general vote

(13) The members representing an electoral group for a municipality shall be elected by general vote of the electors eligible to vote in the municipality for those members.

Electoral
areas in a
municipality

(14) Notwithstanding subsection (13), where the number of members representing an electoral group to be elected that subsection may be two or more, the council of the municipality may, where so requested by the board, by by-law divide the municipality into two or more electoral areas for the purposes of an election under the *Municipal Elections Act*.

R.S.O. 1980,
c. 308

Time for
passing
by-law

(15) A by-law referred to in subsection (14) and a by-law repealing any such by-law shall not be passed later than the 1st day of February in the year of a regular election under the *Municipal Elections Act* and shall take effect for the purpose of the regular election next following the passing of the by-law and remain in force until repealed.

Wards in
electoral
areas

(16) Notwithstanding section 277i, where a municipality is divided into wards, an electoral area may include one or more wards but each ward shall be located entirely within the electoral area.

Election in
combined
municipalities

(17) Where two or more municipalities are combined for the election of one or more members who represent an electoral group, the member or members shall be elected by a general vote of the electors eligible to vote in the combined municipalities for those members.

Appeal

Appeal

206b.—(1) After the determinations are made as required under subsections 206a (5) and (7) and the distribution is made as required under subsection 206a (11) with respect to a board, the determinations and the distribution or the distribution may be appealed to a judge.

Idem

(2) An appeal under this section shall be made by the council of any municipality concerned or a board on behalf of any territory without municipal organization that is deemed a district municipality.

Appeal on
distribution

(3) An appeal on a distribution only may be made only where the distribution allots to a municipality or to a combination of municipalities a number of members to be elected by the electors of an electoral group that is different from the

electoral quotient of the municipality or the sum of the electoral quotients for the combined municipalities by an amount that is greater than 0.05 times the electoral quotient.

(4) An appeal shall be made within twenty days after the date prescribed by the regulations for a determination to be made. Time for appeal

(5) The judge shall make a decision with respect to an appeal within thirty days after the appeal is commenced. Time for decision

(6) The judge on an appeal under this section may, Decision of judge on appeal

(a) vary a determination or distribution that is the subject of the appeal; or

(b) confirm that a determination or distribution that is the subject of the appeal was made in accordance with section 206a.

(7) The decision of a judge on an appeal under this section is final and the appropriate person prescribed by the regulations to make the determination or distribution shall forthwith make such changes as the judge requires. Idem

(8) Where an appeal is not made or is not made within a time referred to in subsection (4), a board shall be deemed to be properly constituted notwithstanding any defect in a determination or distribution. Where no appeal

Applications

206c.—(1) An application may be made to a judge to make, Application for determination or distribution

(a) the determinations that are required to be made under subsections 206a (5) and (7) and the distribution that is required to be made under subsection 206a (11); or

(b) the distribution that is required to be made under subsection 206a (11),

where the determinations and the distribution are not made or a distribution is not made.

(2) An application under this section shall be made by the council of any municipality concerned or a board on behalf of any territory without municipal organization that is deemed a district municipality. Idem

Time for
application

(3) An application shall be made within twenty days after the date prescribed by the regulations for a determination to be made.

Time for
determination

(4) The judge shall make the determinations and distribution or the distribution, as the case requires, within thirty days after the application is commenced.

Determi-
nation or
distribution
final

(5) A determination or distribution made by a judge under subsection (4) is not subject to appeal and shall be deemed to be a determination or distribution made under section 206a.

No determi-
nation or
distribution

(6) Where,

(a) determinations and distributions are not made;

(b) a distribution is not made; or

(c) the judge does not deal with the application within the thirty day time period required,

R.S.O. 1980,
c. 308

the determinations and distribution or the distribution, as the case may be, at the last regular election under the *Municipal Elections Act* shall be deemed to be the determinations and distribution or the distribution for the purposes of the next regular election.

24. Section 277f of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed.

25.—(1) Subsection 277q (2) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed.

(2) Subsection 277q (4) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is amended by striking out “subsections (1) and (2)” in the second line and inserting in lieu thereof “subsection (1)”.

(3) Subsection 277q (5) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is amended by striking out “subsections (1) and (2)” in the second line and inserting in lieu thereof “subsection (1)”.

(4) Clause 277q (6) (a) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is amended by striking out “subsections (1) and (2)” in the second and third lines and inserting in lieu thereof “subsection (1)”.

(5) Clause 277q (6) (b) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed.

(6) Clause 277q (6) (d) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed and the following substituted therefor:

- (d) shall ensure that public notice is given that the board qualifies under this Part to have a French-language section.

(7) Subsection 277q (7) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is amended by striking out “subsections (1) and (2)” in the second line and inserting in lieu thereof “subsection (1)”.

(8) Clause 277q (9) (b) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed.

(9) Clause 277q (9) (d) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed and the following substituted therefor:

- (d) shall ensure that public notice is given that the board qualifies under this Part to have a French-language section.

26. Section 151 of the *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, is repealed.

27. Section 145 of the *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, is repealed.

28. Section 158 of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, is repealed.

29.—(1) Subsection 153 (2) of the *Regional Municipality of Ottawa-Carleton Act*, being chapter 439 of the Revised Statutes of Ontario, 1980, is amended by striking out “composed of seventeen members” in the third line.

(2) Subsection 153 (3) of the said Act is repealed.

(3) Subsections 153 (3a), (3b), (3c) and (3d) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 49, section 21, are repealed.

(4) Subsections 153 (4) and (5) of the said Act are repealed.

(5) Subsection 154 (4) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 21, section 5, is repealed.

(6) Section 155 of the said Act is amended by inserting after "Part III" in the first line "and Part VII-A".

30. Section 140 of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, is repealed.

31. Section 123 of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is repealed.

32. Section 173 of the *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, is repealed.

33. Section 137 of the *County of Oxford Act*, being chapter 365 of the Revised Statutes of Ontario, 1980, is repealed.

34.—(1) Subsection 2 (3) of *The Metropolitan Separate School Board Act, 1953*, being chapter 119, is repealed and the following substituted therefor:

Composition
of board

R.S.O. 1980,
c. 129

(3) The Metropolitan Board shall consist of such number of members as is determined in accordance with Part VII-A of the *Education Act*.

(2) Section 4 of the said Act is repealed and the following substituted therefor:

Oath

R.S.O. 1980,
c. 308

4. Notwithstanding the *Municipal Elections Act*, the oath to be taken by a voter shall be as set out in Schedule B.

(3) Clauses 13 (b), (c) and (d) of the said Act are repealed.

(4) Section 17 of the said Act is repealed and the following substituted therefor:

Metropolitan
Board to be
urban
separate
school board

17. Except as otherwise provided in this Act, the Metropolitan Board shall be an urban separate school board within the meaning of the *Education Act* and with respect to the district shall enjoy all the rights, powers and privileges of and be subject to all the obligations imposed upon an urban separate school board by that Act.

(5) Schedule A to the said Act is repealed.

35. Section 3 of *The City of Sault Ste. Marie Act, 1977*, being chapter 103, is repealed.

36. Clause 32 (d) of *The City of Timmins-Porcupine Act, 1972*, being chapter 117, is repealed.

37.—(1) Notwithstanding that sections 1 to 36 do not come into force until the 1st day of December, 1988, the regular elections to be held in 1988 under the *Municipal Elections Act* shall be conducted and the determinations and distributions in respect of those elections including appeals and applications with respect thereto shall be made as if sections 1 to 36 of this Act were in force. Transition

(2) Notwithstanding that sections 1 to 36 do not come into force until the 1st day of December, 1988, where members of a board were elected in a municipality to represent areas established or continued under subsection 59 (23) or 113 (19) of the *Education Act* or under clause 32 (d) of *The City of Timmins-Porcupine Act, 1972* or by wards at the regular election held under the *Municipal Elections Act* in 1985, those areas or wards or those areas or wards as altered prior to the 2nd day of February, 1988, shall, unless dissolved, be deemed to be electoral areas established prior to that date under subsection 206a (14) of the *Education Act*, as enacted by section 23 of this Act, as if that subsection were in force. Idem
R.S.O. 1980,
cc. 129, 308
1972, c. 117

38.—(1) This Act, except section 37, comes into force on the 1st day of December, 1988. Commence-
ment

(2) Section 37 comes into force on the day it receives Royal Assent. Idem

39. The short title of this Act is the *Education Statute Law Amendment Act, 1987*. Short title

Bill 77

An Act to amend the Municipal Elections Act and the Assessment Act

The Hon. J. Eakins
Minister of Municipal Affairs



1st Reading December 16th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The purpose of this Bill is to provide for an improved voter identification system for municipal and school board elections. Voters' lists will be based on an enumeration to be taken in election years by a mail-out questionnaire and by household canvassing with provision for continuous updating of the information in a non-election year.

The principal provisions of the Bill are as follows:

Municipal Elections Act

SECTIONS 2 and 3. The qualification period for electors under the *Municipal Elections Act* will continue to commence on the Tuesday following the first Monday in September in an election year but will end on the Monday (instead of Wednesday) in October that precedes polling day by twenty-eight (instead of nineteen) days. A person whose name appears on the preliminary list is deemed to be entitled to be an elector unless there is evidence to the contrary.

SECTION 6. An assessment commissioner is to prepare by the 31st day of July in an election year from the latest updated information an enumeration list.

SECTION 9. The enumeration list is to be delivered to the clerk and the school board by the 31st day of July in an election year.

SECTION 10. After fixing the places and times for revision of the list, the municipal clerk is to provide the Assessment Commissioner with this information by the date prescribed by the Minister of Revenue.

On or before the 31st day of August in an election year, the assessment commissioner is to mail to electors on the preliminary list a notice stating their electoral status and also the places and times for the revision of the preliminary list.

SECTION 12. The day of posting copies of the preliminary list, giving notice of such posting and the commencement of the revision of the list is to be the Tuesday following the first Monday in September (instead of at least seven days before the last day for revisions as presently provided).

The last day for filing revision applications is to be the day immediately preceding the twenty-eighth day (instead of the nineteenth day) before polling day to coincide with nomination day. The length of the revision period will be increased from the existing maximum of twenty-six days to about forty days.

SECTION 13. On or before the twenty-eighth day before election day, the clerk is to send to candidates and others a statement of changes arising from the revision of the list. At present, the clerk is required to do so but without any stipulation as to time.

SECTION 14. Nomination is to be Monday, the twenty-eighth day before polling day instead of the twenty-first day as presently fixed.

SECTION 15. After polling day, the clerk is to send to the assessment commissioner the qualification documents of electors who were added to the polling list under the authority of a certificate issued before polling day or based on a declaration taken at the polling place.

SECTION 16. Provision is made for the preparation of the preliminary list for use at a by-election based on the latest enumeration list and for its printing, posting and revision. The qualification period for electors is the same as those for entitlement for vote at a regular election but the requirements must be met during the fifteen days before nomination day. Special provisions have been added for taking the vote on a by-law or question where such vote is authorized under an order of the Ontario Municipal Board.

SECTION 17. This amendment provides the general authority for the Minister of Revenue to make regulations under specific provisions of the *Assessment Act* and the *Municipal Elections Act*.

SECTION 21. This amendment re-enacts subsection 14 (1) of the *Assessment Act* to alter the period during which a census (now to be called an enumeration) is taken in an election year. The Minister of Revenue may make regulations prescribing information and the manner in which the enumeration is to be taken.

Subsection 14 (2) is amended to change the date of off-year enumerations from September to a date prescribed by the Minister of Revenue and to provide for the collection of the information prescribed under subsection (1).

Section 14 (5) is added to specify how the enumeration is to be taken. Subsections 14 (6) and (7) require the assessment commissioner to update the information collected on an enumeration and permits the commissioner to deliver a municipal enumeration notice at times other than during an enumeration.

SECTION 22. Subsection 15 (1) is amended to remove the requirement to deliver the annual school support list to the clerk. The date for the delivery of the list to the secretary of the school board is changed from the second Tuesday of October to the 30th day of September in each year. Subsection 15 (3) replaces the current procedure to add or alter school support set out in subsections 15 (5) and (6) to provide for applications throughout the year to include or alter a person's school support from that indicated on the assessment roll. The provision for public inspection of the school support list is eliminated.

Bill 77**1987**

**An Act to amend the
Municipal Elections Act and the Assessment Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART 1

MUNICIPAL ELECTIONS ACT

1.—(1) Paragraph 14 of section 1 of the *Municipal Elections Act*, being chapter 308 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

14. “enumeration” means the latest enumeration under the *Assessment Act*;

R.S.O. 1980,
c. 31

14a. “enumeration list” means the most recent list of electors prepared by the assessment commissioner under section 19.

(2) Paragraph 29 of section 1 of the said Act is repealed and the following substituted therefor:

29. “preliminary list” means an enumeration list of electors which has been corrected under section 23 and printed or reproduced under clause 24 (a).

2.—(1) Section 12 of the said Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 3, is further amended by striking out “Wednesday in October that precedes polling day by nineteen” in the sixth line and inserting in lieu thereof “Monday in October that precedes polling day by twenty-eight”.

(2) The said section 12 is further amended by adding thereto the following subsection:

Deeming
provision

(2) A person whose name is on the preliminary list is deemed to be entitled to be an elector unless there is evidence to the contrary.

3.—(1) Section 13 of the said Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 4, is further amended by striking out “Wednesday in October that precedes polling day by nineteen” in the sixth and seventh lines and inserting in lieu thereof “Monday in October that precedes polling day by twenty-eight”.

(2) The said section 13 is further amended by adding thereto the following subsection:

Deeming
provision

(2) A person whose name appears on the preliminary list is deemed to be entitled to be an elector unless there is evidence to the contrary.

4. Section 17 of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 7, section 1, is amended by inserting after “clerk” in the first line “on or before the date prescribed by the Minister of Revenue under the *Assessment Act*”.

5. The heading immediately preceding section 19 of the said Act is amended by striking out “Preliminary” and inserting in lieu thereof “Enumeration”.

6. Section 19 of the said Act, exclusive of the clauses, is repealed and the following substituted therefor:

Enumeration
list

19. An assessment commissioner shall, on or before the 31st day of July in an election year, from the latest enumeration and from data received from other sources, compile for each polling subdivision in each municipality and locality in the assessment region an enumeration list containing the name and address of each person who meets the requirements for an elector under subsection 12 (1) or subsection 13 (1) and such list shall signify opposite the name of an elector,

.

7.—(1) Subsection 20 (1) of the said Act is amended by striking out “preliminary” in the third line and inserting in lieu thereof “enumeration”.

(2) Subsection 20 (2) of the said Act is amended by striking out “preliminary” in the second line and inserting in lieu thereof “enumeration”.

8.—(1) Subsection 21 (1) of the said Act is amended by striking out “preliminary” in the second line and inserting in lieu thereof “enumeration”.

(2) Subsection 21 (2) of the said Act is amended by striking out “preliminary” in the second line and inserting in lieu thereof “enumeration”.

9. Section 22 of the said Act is repealed and the following substituted therefor:

22.—(1) The assessment commissioner shall deliver the enumeration list to the clerk and, in respect of a locality, to the secretary of the school board on or before the 31st day of July in an election year.

Delivery of
enumeration
list

(2) At the written request of the clerk, the assessment commissioner may deliver the enumeration list in a format that will facilitate the use of mechanical or electronic means in the printing or reproduction of the list.

Idem

10. Section 23 of the said Act is amended by adding thereto the following subsections:

(2) The clerk or secretary, after making the corrections under subsection (1), shall establish the places where and fix the times when the list will be revised and notify the assessment commissioner of such places and times on or before the date prescribed by the Minister of Revenue under the *Assessment Act*.

Revision of
list

R.S.O. 1980,
c. 31

(3) On or before the 31st day of August in an election year, the assessment commissioner shall mail to each elector on the preliminary list, at the address shown in the list, a notice in the form prescribed by the Minister of Revenue under the *Assessment Act* stating the electoral status of such person and the places and times for the revision of the preliminary list.

Mailing of
notice of
electoral
status

(4) If there is more than one elector at any address, only one notice is required to be sent to that address.

One mailing
per address

11. Clause 24 (b) of the said Act is repealed.

12. Subsections 25 (2) and (3) of the said Act are repealed and the following substituted therefor:

(2) On the Tuesday following the first Monday in September, copies of the preliminary list under subsection (1) shall be posted, notice given under section 24 and the revision of the list commenced.

Time for
posting, etc.

Last day for
filing
applications
for revision

(3) The last day for filing applications for revision of the preliminary list shall be the day immediately preceding the twenty-eighth day before polling day and the applications may be filed with the clerk during normal office hours.

13. Section 30 of the said Act is repealed and the following substituted therefor:

Statement of
changes

30.—(1) Upon the determination of all applications for revision of the preliminary list filed on or before the last day for filing applications, the clerk shall compile a statement of changes to the list including deletions and additions.

Idem

(2) The statement shall set out the full name and address of each person who is the subject of the addition, change or deletion.

Distribution
of statement

(3) The clerk shall, on or before the twenty-eighth day before polling day, send a certified copy of the statement to each person specified in subsection 25 (5) and shall furnish two certified copies of the statement to every candidate for office.

14. Subsection 35 (1) of the said Act is amended by striking out “twenty-first” in the second line and inserting in lieu thereof “twenty-eighth”.

15. Section 89 of the said Act is amended by adding thereto the following subsection:

Clerk to
forward
certain
documents
R.S.O. 1980,
c. 31

(3) After polling day, within the time prescribed by the Minister of Revenue under the *Assessment Act*, the clerk shall send to the assessment commissioner the certificates filed under subsection 33 (3) and the declarations taken under subsection 56 (1).

16. Subsections 92 (4) and (5) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 47, section 24, are repealed and the following substituted therefor:

Preliminary
list of
electors

(4) The preliminary list to be used for a new election shall be prepared as follows:

1. The clerk shall notify the assessment commissioner by registered mail of the requirement for a new election.
2. The assessment commissioner shall deliver to the clerk the enumeration list dated as of the date of the mailing of the notice.

3. Upon receipt of the enumeration list, the clerk, after making corrections under section 23, shall cause the list to be printed or reproduced, whereupon the list shall be the preliminary list.

(5) The preliminary list shall be posted in accordance with subsections 25 (1) and (2). Posting of list

(5a) The preliminary list is subject to revision for fifteen days before nomination day and sections 25 to 30 apply to the revision with necessary modifications. Revision of preliminary list

(5b) The requirements for the qualification of electors are the same as those set out in subsection 12 (1) or 13 (1) but electors may meet the requirements at any time during the fifteen days before nomination day. Qualifications

(5c) If a by-law or question is to be submitted to the electors at an election, other than a regular election, in compliance with an order of the Ontario Municipal Board given under subsection 132 (4) of the *Municipal Act*, unless the Board otherwise directs, Procedures

R.S.O. 1980,
c. 302

- (a) the clerk of the municipality shall set a date for polling day which shall be within sixty days of the effective date of the Board's order;
- (b) the clerk shall prepare, correct, print or reproduce and post the preliminary list in accordance with subsections (4) and (5);
- (c) the preliminary list shall be subject to revision for a period commencing twenty-one days after the effective date of the Board's order and ending thirty-six days thereafter; and
- (d) the period during which a person may qualify as an elector entitled to vote on the by-law or question shall be the period commencing thirty-four days after the effective date of the Board's order and ending on polling day.

PART II

ASSESSMENT ACT

17. Clause 2 (1a) (e) of the *Assessment Act*, being chapter 31 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1984, chapter 28, section 1, is repealed and the following substituted therefor:

R.S.O. 1980,
c. 308

- (e) prescribing anything the Minister is permitted or required by this Act or by the *Municipal Elections Act* to prescribe.

18. Subsection 9 (2) of the said Act is amended by striking out "census" in the twelfth line and inserting in lieu thereof "enumeration".

19. Subsection 10 (3) of the said Act is amended by striking out "census" in the fifth line and inserting in lieu thereof "enumeration".

20. Subsection 13 (4) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 47, section 2, is amended by striking out "list prepared and revised by him" in the fifth line and inserting in lieu thereof "applications for the direction of school taxes received and approved by the assessment commissioner".

21.—(1) Subsections 14 (1) and (2) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 47, section 3, are repealed and the following substituted therefor:

Enumeration

R.S.O. 1980,
c. 308

(1) The assessment commissioner shall, commencing on the 1st day of May and ending on the 30th day of June in each election year as defined in the *Municipal Elections Act* and in any other year in which the Minister considers it necessary, cause an enumeration to be taken of the inhabitants of each municipality and locality in the assessment region in the manner prescribed by the Minister and including such information as may be prescribed by the Minister.

Other
enumeration

(2) The assessment commissioner shall, at a time to be prescribed by the Minister, in each year in which an enumeration is not taken under subsection (1), cause an enumeration to be taken of the occupants of any domestic establishment that is,

- (a) used or intended to be used as a residence by the tenant or lessee;
- (b) separately assessed under this Act; and
- (c) contained in a building having not less than seven such domestic establishments,

and the enumeration shall include the information prescribed under subsection (1).

(2) Subsection 14 (3) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 47, section 3, is amended by

striking out “census” in the second line and in the third line and inserting in lieu thereof in each instance “enumeration”.

(3) Subsection 14 (4) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 47, section 3, is repealed and the following substituted therefor:

(4) The enumeration taken under this section shall be the enumeration referred to in the *Municipal Elections Act*. Enumeration
for R.S.O.
1980, c. 308
purposes

(4) Section 14 of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 47, section 3, is amended by adding thereto the following subsections:

(5) The enumeration under this section shall be taken by, How
enumeration
to be taken

- (a) delivering or mailing a municipal enumeration form as prescribed by the Minister to the last known address of each inhabitant;
- (b) canvassing the premises of those inhabitants who have not completed and returned the notice delivered or mailed under clause (a) on or before the 15th day of May or such other day as the Minister may prescribe; and
- (c) such other means or in such other manner as the Minister may prescribe.

(6) The assessment commissioner shall update the information received on the last enumeration under subsection (1) or (2) with such further information as may come to the attention of the assessment commissioner. Update of
information

(7) The assessment commissioner may cause to be delivered or mailed to the address of any person who is or may be assessed in respect of land, whether resident in the municipality or not, the form referred to in clause (5) (a). Delivery of
notice

22.—(1) Subsection 15 (1) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 47, section 3, is amended by,

- (a) striking out “to the clerk of the municipality and” in the fifth line; and
- (b) striking out “second Tuesday of October in each year” at the end thereof and inserting in lieu thereof “30th day of September in each year”.

(2) Subsections 15 (2) to (6) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 47, section 3, are repealed and the following substituted therefor:

Preparation
of list

(2) Subject to subsection (3), the list referred to in subsection (1) shall be prepared on the basis of information contained in the enumeration, including updates thereto under subsection 14 (6), that has been completed by the assessment commissioner on or before the 30th day of September in that year.

Application
respecting
assessment
roll

(3) Any person may apply to the assessment commissioner to have that person's name included or altered in the assessment roll as a separate school supporter, if the person is a Roman Catholic, or a public school supporter and the assessment commissioner may make the addition or alteration.

Format of
list

(4) At the request of the secretary of the school board, the assessment commissioner may deliver the list referred to in subsection (1) in a format that will facilitate the use of mechanical or electronic means in the printing, reproduction or other use of the list.

Regulations

(5) The Minister may make regulations prescribing the forms and procedures to be used by a person applying to the assessment commissioner under subsection (3).

(3) Subsection 15 (7) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 47, section 3, is amended by striking out "subsection (6)" in the third line and inserting in lieu thereof "subsection (3)".

(4) Subsection 15 (8) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 47, section 3, is repealed and the following substituted therefor:

Delivery of
application
by
assessment
commissioner

(8) If the assessment commissioner approves an application under subsection (3), the assessment commissioner shall deliver a copy of the approved application to the secretary of each school board in the municipality or locality in which the applicant is entitled to direct taxes for school support.

(5) Subsections 15 (11) and (12) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 47, section 3, are repealed.

23. This Act comes into force on the day it receives Royal Assent. Commence-
ment

24. The short title of this Act is the *Municipal Elections Statute Law Amendment Act, 1987*. Short title

Bill 77

(Chapter 20
Statutes of Ontario, 1988)

An Act to amend the Municipal Elections Act and the Assessment Act

The Hon. J. Eakins
Minister of Municipal Affairs



<i>1st Reading</i>	December 16th, 1987
<i>2nd Reading</i>	April 7th, 1988
<i>3rd Reading</i>	April 11th, 1988
<i>Royal Assent</i>	April 11th, 1988

Bill 77

1987

**An Act to amend the
Municipal Elections Act and the Assessment Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART 1

MUNICIPAL ELECTIONS ACT

1.—(1) Paragraph 14 of section 1 of the *Municipal Elections Act*, being chapter 308 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

14. “enumeration” means the latest enumeration under the *Assessment Act*;

R.S.O. 1980,
c. 31

- 14a. “enumeration list” means the most recent list of electors prepared by the assessment commissioner under section 19.

(2) Paragraph 29 of section 1 of the said Act is repealed and the following substituted therefor:

29. “preliminary list” means an enumeration list of electors which has been corrected under section 23 and printed or reproduced under clause 24 (a).

2.—(1) Section 12 of the said Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 3, is further amended by striking out “Wednesday in October that precedes polling day by nineteen” in the sixth line and inserting in lieu thereof “Monday in October that precedes polling day by twenty-eight”.

(2) The said section 12 is further amended by adding thereto the following subsection:

Deeming
provision

(2) A person whose name is on the preliminary list is deemed to be entitled to be an elector unless there is evidence to the contrary.

3.—(1) Section 13 of the said Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 4, is further amended by striking out “Wednesday in October that precedes polling day by nineteen” in the sixth and seventh lines and inserting in lieu thereof “Monday in October that precedes polling day by twenty-eight”.

(2) The said section 13 is further amended by adding thereto the following subsection:

Deeming
provision

(2) A person whose name appears on the preliminary list is deemed to be entitled to be an elector unless there is evidence to the contrary.

4. Section 17 of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 7, section 1, is amended by inserting after “clerk” in the first line “on or before the date prescribed by the Minister of Revenue under the *Assessment Act*”.

5. The heading immediately preceding section 19 of the said Act is amended by striking out “Preliminary” and inserting in lieu thereof “Enumeration”.

6. Section 19 of the said Act, exclusive of the clauses, is repealed and the following substituted therefor:

Enumeration
list

19. An assessment commissioner shall, on or before the 31st day of July in an election year, from the latest enumeration and from data received from other sources, compile for each polling subdivision in each municipality and locality in the assessment region an enumeration list containing the name and address of each person who meets the requirements for an elector under subsection 12 (1) or subsection 13 (1) and such list shall signify opposite the name of an elector,

.

7.—(1) Subsection 20 (1) of the said Act is amended by striking out “preliminary” in the third line and inserting in lieu thereof “enumeration”.

(2) Subsection 20 (2) of the said Act is amended by striking out “preliminary” in the second line and inserting in lieu thereof “enumeration”.

8.—(1) Subsection 21 (1) of the said Act is amended by striking out “preliminary” in the second line and inserting in lieu thereof “enumeration”.

(2) Subsection 21 (2) of the said Act is amended by striking out “preliminary” in the second line and inserting in lieu thereof “enumeration”.

9. Section 22 of the said Act is repealed and the following substituted therefor:

22.—(1) The assessment commissioner shall deliver the enumeration list to the clerk and, in respect of a locality, to the secretary of the school board on or before the 31st day of July in an election year.

Delivery of
enumeration
list

(2) At the written request of the clerk, the assessment commissioner may deliver the enumeration list in a format that will facilitate the use of mechanical or electronic means in the printing or reproduction of the list.

Idem

10. Section 23 of the said Act is amended by adding thereto the following subsections:

(2) The clerk or secretary, after making the corrections under subsection (1), shall establish the places where and fix the times when the list will be revised and notify the assessment commissioner of such places and times on or before the date prescribed by the Minister of Revenue under the *Assessment Act*.

Revision of
list

R.S.O. 1980,
c. 31

(3) On or before the 31st day of August in an election year, the assessment commissioner shall mail to each elector on the preliminary list, at the address shown in the list, a notice in the form prescribed by the Minister of Revenue under the *Assessment Act* stating the electoral status of such person and the places and times for the revision of the preliminary list.

Mailing of
notice of
electoral
status

(4) If there is more than one elector at any address, only one notice is required to be sent to that address.

One mailing
per address

11. Clause 24 (b) of the said Act is repealed.

12. Subsections 25 (2) and (3) of the said Act are repealed and the following substituted therefor:

(2) On the Tuesday following the first Monday in September, copies of the preliminary list under subsection (1) shall be posted, notice given under section 24 and the revision of the list commenced.

Time for
posting, etc.

Last day for
filing
applications
for revision

(3) The last day for filing applications for revision of the preliminary list shall be the day immediately preceding the twenty-eighth day before polling day and the applications may be filed with the clerk during normal office hours.

13. Section 30 of the said Act is repealed and the following substituted therefor:

Statement of
changes

30.—(1) Upon the determination of all applications for revision of the preliminary list filed on or before the last day for filing applications, the clerk shall compile a statement of changes to the list including deletions and additions.

Idem

(2) The statement shall set out the full name and address of each person who is the subject of the addition, change or deletion.

Distribution
of statement

(3) The clerk shall, on or before the twenty-eighth day before polling day, send a certified copy of the statement to each person specified in subsection 25 (5) and shall furnish two certified copies of the statement to every candidate for office.

14. Subsection 35 (1) of the said Act is amended by striking out “twenty-first” in the second line and inserting in lieu thereof “twenty-eighth”.

15. Section 89 of the said Act is amended by adding thereto the following subsection:

Clerk to
forward
certain
documents
R.S.O. 1980,
c. 31

(3) After polling day, within the time prescribed by the Minister of Revenue under the *Assessment Act*, the clerk shall send to the assessment commissioner the certificates filed under subsection 33 (3) and the declarations taken under subsection 56 (1).

16. Subsections 92 (4) and (5) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 47, section 24, are repealed and the following substituted therefor:

Preliminary
list of
electors

(4) The preliminary list to be used for a new election shall be prepared as follows:

1. The clerk shall notify the assessment commissioner by registered mail of the requirement for a new election.
2. The assessment commissioner shall deliver to the clerk the enumeration list dated as of the date of the mailing of the notice.

3. Upon receipt of the enumeration list, the clerk, after making corrections under section 23, shall cause the list to be printed or reproduced, whereupon the list shall be the preliminary list.

(5) The preliminary list shall be posted in accordance with subsections 25 (1) and (2). Posting of list

(5a) The preliminary list is subject to revision for fifteen days before nomination day and sections 25 to 30 apply to the revision with necessary modifications. Revision of preliminary list

(5b) The requirements for the qualification of electors are the same as those set out in subsection 12 (1) or 13 (1) but electors may meet the requirements at any time during the fifteen days before nomination day. Qualifications

(5c) If a by-law or question is to be submitted to the electors at an election, other than a regular election, in compliance with an order of the Ontario Municipal Board given under subsection 132 (4) of the *Municipal Act*, unless the Board otherwise directs, Procedures
R.S.O. 1980,
c. 302

- (a) the clerk of the municipality shall set a date for polling day which shall be within sixty days of the effective date of the Board's order;
- (b) the clerk shall prepare, correct, print or reproduce and post the preliminary list in accordance with subsections (4) and (5);
- (c) the preliminary list shall be subject to revision for a period commencing twenty-one days after the effective date of the Board's order and ending thirty-six days thereafter; and
- (d) the period during which a person may qualify as an elector entitled to vote on the by-law or question shall be the period commencing thirty-four days after the effective date of the Board's order and ending on polling day.

PART II

ASSESSMENT ACT

17. Clause 2 (1a) (e) of the *Assessment Act*, being chapter 31 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1984, chapter 28, section 1, is repealed and the following substituted therefor:

R.S.O. 1980,
c. 308

- (e) prescribing anything the Minister is permitted or required by this Act or by the *Municipal Elections Act* to prescribe.

18. Subsection 9 (2) of the said Act is amended by striking out “census” in the twelfth line and inserting in lieu thereof “enumeration”.

19. Subsection 10 (3) of the said Act is amended by striking out “census” in the fifth line and inserting in lieu thereof “enumeration”.

20. Subsection 13 (4) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 47, section 2, is amended by striking out “list prepared and revised by him” in the fifth line and inserting in lieu thereof “applications for the direction of school taxes received and approved by the assessment commissioner”.

21.—(1) Subsections 14 (1) and (2) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 47, section 3, are repealed and the following substituted therefor:

Enumeration

R.S.O. 1980,
c. 308

(1) The assessment commissioner shall, commencing on the 1st day of May and ending on the 30th day of June in each election year as defined in the *Municipal Elections Act* and in any other year in which the Minister considers it necessary, cause an enumeration to be taken of the inhabitants of each municipality and locality in the assessment region in the manner prescribed by the Minister and including such information as may be prescribed by the Minister.

Other
enumeration

(2) The assessment commissioner shall, at a time to be prescribed by the Minister, in each year in which an enumeration is not taken under subsection (1), cause an enumeration to be taken of the occupants of any domestic establishment that is,

- (a) used or intended to be used as a residence by the tenant or lessee;
- (b) separately assessed under this Act; and
- (c) contained in a building having not less than seven such domestic establishments,

and the enumeration shall include the information prescribed under subsection (1).

(2) Subsection 14 (3) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 47, section 3, is amended by

striking out “census” in the second line and in the third line and inserting in lieu thereof in each instance “enumeration”.

(3) Subsection 14 (4) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 47, section 3, is repealed and the following substituted therefor:

(4) The enumeration taken under this section shall be the enumeration referred to in the *Municipal Elections Act*. Enumeration for R.S.O. 1980, c. 308 purposes

(4) Section 14 of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 47, section 3, is amended by adding thereto the following subsections:

(5) The enumeration under this section shall be taken by, How enumeration to be taken

- (a) delivering or mailing a municipal enumeration form as prescribed by the Minister to the last known address of each inhabitant;
- (b) canvassing the premises of those inhabitants who have not completed and returned the notice delivered or mailed under clause (a) on or before the 15th day of May or such other day as the Minister may prescribe; and
- (c) such other means or in such other manner as the Minister may prescribe.

(6) The assessment commissioner shall update the information received on the last enumeration under subsection (1) or (2) with such further information as may come to the attention of the assessment commissioner. Update of information

(7) The assessment commissioner may cause to be delivered or mailed to the addresss of any person who is or may be assessed in respect of land, whether resident in the municipality or not, the form referred to in clause (5) (a). Delivery of notice

22.—(1) Subsection 15 (1) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 47, section 3, is amended by,

- (a) striking out “to the clerk of the municipality and” in the fifth line; and
- (b) striking out “second Tuesday of October in each year” at the end thereof and inserting in lieu thereof “30th day of September in each year”.

(2) Subsections 15 (2) to (6) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 47, section 3, are repealed and the following substituted therefor:

Preparation
of list

(2) Subject to subsection (3), the list referred to in subsection (1) shall be prepared on the basis of information contained in the enumeration, including updates thereto under subsection 14 (6), that has been completed by the assessment commissioner on or before the 30th day of September in that year.

Application
respecting
assessment
roll

(3) Any person may apply to the assessment commissioner to have that person's name included or altered in the assessment roll as a separate school supporter, if the person is a Roman Catholic, or a public school supporter and the assessment commissioner may make the addition or alteration.

Format of
list

(4) At the request of the secretary of the school board, the assessment commissioner may deliver the list referred to in subsection (1) in a format that will facilitate the use of mechanical or electronic means in the printing, reproduction or other use of the list.

Regulations

(5) The Minister may make regulations prescribing the forms and procedures to be used by a person applying to the assessment commissioner under subsection (3).

(3) Subsection 15 (7) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 47, section 3, is amended by striking out "subsection (6)" in the third line and inserting in lieu thereof "subsection (3)".

(4) Subsection 15 (8) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 47, section 3, is repealed and the following substituted therefor:

Delivery of
application
by
assessment
commissioner

(8) If the assessment commissioner approves an application under subsection (3), the assessment commissioner shall deliver a copy of the approved application to the secretary of each school board in the municipality or locality in which the applicant is entitled to direct taxes for school support.

(5) Subsections 15 (11) and (12) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 47, section 3, are repealed.

23. This Act comes into force on the day it receives Royal Assent. Commence-
ment

24. The short title of this Act is the *Municipal Elections Statute Law Amendment Act, 1988.* Short title

1ST SESSION, 34TH LEGISLATURE, ONTARIO

36 ELIZABETH II, 1987

Bill 78

An Act respecting the Sale of Farm Implements

The Hon. J. Riddell

Minister of Agriculture and Food



1st Reading December 16th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The Bill creates the Ontario Farm Implements Board whose functions include the registration of dealers and distributors of farm implements, the mediation of disputes between purchasers of farm implements and their dealers or distributors, and the supervision of safety measures relating to farm implements.

The Bill also regulates the sale of farm implements. It requires that sale agreements be in writing and include specified information with respect to the farm implement and the terms of the sale. It provides minimum warranties on the sale of new farm implements as to power and quality and as to the supply and quality of repair parts. Provision is also made for the supply of emergency repair parts and for the return or replacement of defective farm implements.

In addition, the Bill regulates the repurchase of a dealer's unused farm implements by the distributor who supplied them on the termination by the distributor of the agreement to supply the farm implements.

Bill 78

1987

An Act respecting the Sale of Farm Implements

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

"Board" means the Ontario Farm Implements Board established under section 4;

“chairperson” means the chairperson designated under subsection 4 (3);

“dealer” means a person who, in the ordinary course of business, offers farm implements for sale at retail;

“distributor” means a person, including a manufacturer, who, in the ordinary course of business, sells, consigns or delivers farm implements or parts to a dealer;

“effective date” means the date determined under section 11;

“farm implement” means any equipment or machinery designed and used for agricultural or horticultural use and includes attachments;

“Minister” means the Minister of Agriculture and Food;

“prescribed” means prescribed by the regulations made under this Act;

“purchaser” means a person, an association of individuals or a partnership who purchases a farm implement;

“sale agreement” means an agreement between a purchaser, other than a distributor, and a dealer for the sale of a new or used farm implement;

“trade-in” means a farm implement or other property that is purchased by the dealer under a trade-in arrangement;

“trade-in allowance” means the amount shown in a sale agreement as the amount accepted by the dealer as the value of a trade-in under a trade-in arrangement;

“trade-in arrangement” means an arrangement, whether contained in a sale agreement or made by a separate agreement in conjunction with a sale agreement, whereby the purchaser agrees to sell the purchaser’s own farm implement or other property to the dealer and the farm implement or other property is accepted as the whole or part of the consideration under the sale agreement;

“vice-chairperson” means the vice-chairperson designated under subsection 4 (3).

Application

2.—(1) This Act does not apply to the sale of a farm implement,

- (a) by a person in the ordinary course of farming operations;
- (b) by an executor or administrator; or
- (c) by a public official acting under judicial process.

(2) This Act does not apply to the sale of a farm implement with a manufacturer's suggested list price that is less than the prescribed amount. Idem

3.—(1) On and after the ninetieth day after this Act comes into force, a dealer shall not sell or offer for sale a new farm implement unless it was obtained by the dealer from a distributor registered under this Act. Sales of farm implements

(2) Subsection (1) does not apply with respect to a new farm implement that is in the dealer's possession before this Act comes into force. Transition

(3) On and after the ninetieth day after this Act comes into force, a distributor shall not sell a new farm implement to any person except a dealer registered under this Act. Sales by distributor

(4) An agreement between a distributor and a dealer respecting the purchase and sale of a farm implement shall be in writing and shall contain such information as may be prescribed. Agreement in writing

BOARD AND INSPECTORS

4.—(1) The Ontario Farm Implements Board is hereby established and shall consist of not less than seven members appointed by the Minister. Ontario Farm Implements Board established

(2) The composition of the Board shall be as prescribed. Composition

(3) The Minister may designate one of the members of the Board as chairperson and one of the members as vice-chairperson. Chairperson, vice-chairperson

(4) The chairperson of the Board shall have general supervision and direction over the conduct of the affairs of the Board and, in the absence of the chairperson or if he or she is unable to act, the vice-chairperson shall have all the powers of the chairperson. Chairperson to have supervision

(5) The members of the Board may be appointed to hold office for a term not exceeding three years and may be reappointed for a further term or terms, but no member shall hold Term of office

office for more than a total of six years, whether the member's appointments are for consecutive terms or not.

Remuneration
and expenses

(6) The members of the Board who are not public servants of Ontario shall be paid such remuneration and expenses as may be fixed by the Lieutenant Governor in Council.

Board
proceedings

(7) The Board may make rules for the conduct and management of its affairs and for the practice and procedure to be observed in matters before it, and may require that a person seeking a determination of a matter by the Board give written notice, in the form and manner that the Board specifies, to the persons that the Board specifies.

Powers and
duties of
Board

5.—(1) The Board may exercise the powers and shall perform the duties that are conferred or imposed upon it by or under this Act.

Incidental
powers

(2) Without limiting the generality of subsection (1), the Board has power,

- (a) to require the production of documents, records, reports or things that the Board considers necessary to permit it to investigate and consider any matter within its jurisdiction;
- (b) to accept such oral or written evidence as it in its discretion considers proper, whether admissible in a court of law or not;
- (c) on the request of a purchaser, dealer or distributor, to inquire into and resolve a dispute with respect to any matter arising from the application of this Act or the regulations;
- (d) to investigate claims regarding charges by dealers for repairs to farm implements; and
- (e) to make such inquiries and orders as are necessary to ensure that there is compliance with its decisions.

Mediator

(3) Where a request is made to the Board under clause (2) (c) or (d), the Board may appoint a mediator to resolve the dispute.

Hearing

(4) If the mediator is unable to resolve the dispute, any of the parties to the mediation may apply to the Board for a hearing.

(5) The Board shall decide the issue that is before it for a hearing and shall serve notice of the decision, together with written reasons, on the parties to the hearing. Decision

(6) An appeal from a decision of the Board on a question of law may be made to the Divisional Court. Appeal

(7) Subsections 8 (2) to (6), both inclusive, apply with necessary modifications to an appeal under subsection (6). Application of s. 8 (2-6)

- (8) The Board is responsible for ensuring compliance with, Farm implement standards and safety
- (a) the prescribed safety standards for farm implement performance; and
 - (b) the prescribed requirements for dealers respecting safety information and instruction to be given to purchasers on the sale of new farm implements.

(9) The Board may conduct research related to farm implement design, construction, performance and safety. Research

(10) The Board may develop and co-ordinate or approve educational programs respecting farm implement safety and may promote participation in such programs. Education

(11) The Board may work with manufacturers to encourage standardization of the design and operation of controls of farm implements manufactured for sale in Ontario. Standardization

(12) Part I of the *Statutory Powers Procedure Act* applies to proceedings of the Board. Application of R.S.O. 1980, c. 484

REGISTRATION OF DEALERS AND DISTRIBUTORS

6.—(1) On and after the ninetieth day after this Act comes into force, no person shall carry on the business of a dealer or distributor unless the person is registered under this Act. Registration required

(2) An applicant for registration or renewal of registration as a dealer or distributor is entitled to registration or renewal on submitting a completed application, together with the prescribed fee. Entitlement to registration

(3) A registration is subject to such conditions to give effect to the purposes of this Act as are prescribed by the regulations. Conditions of registration

7. Subject to section 8, the Board may refuse to grant or renew or may suspend or revoke a registration if the applicant Refusal to register, revocation

is in breach of a condition of the registration or a provision of this Act or the regulations, or would be if registered.

Notice of
decision to
refuse or
revoke

8.—(1) If the Board decides to refuse to grant or renew a registration or decides to suspend or revoke a registration, it shall serve notice of its decision, together with written reasons, on the applicant or registrant.

Appeal to
Divisional
Court

(2) A notice under subsection (1) shall inform the applicant or registrant that he or she may appeal from the decision to the Divisional Court in accordance with the rules of court within fifteen days from the day on which the decision was served.

Certified
copies of
papers

(3) On the request of any person desiring to appeal, the Director shall furnish such person with a certified copy of all proceedings, evidence, reports and papers received in evidence by the Board in dealing with and disposing of the application.

Procedure
and record

(4) An appeal under this section shall be by motion, notice of which shall be served on the Director, and the record shall consist of a copy, certified by the Director, of the proceedings of the Board, the evidence taken, and the findings and decisions of the Board in the matter.

Orders

(5) Upon the hearing of an appeal under this section, the Divisional Court may make such order as it considers proper or may refer the matter back to the Board with such directions as the court considers proper.

Costs

(6) The Divisional Court may make such orders as to the costs of the appeal as the court considers proper.

Voluntary
cancellation

(7) Despite subsection (1), the Board may cancel a registration on the request in writing of the registrant.

Continuation
of registration
pending
renewal

(8) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of the registration, a registrant has applied for renewal of the registration and paid the prescribed fee, the registration continues in force,

(a) until the renewal is granted; or

(b) where the registrant is served with notice of the Board's decision to refuse to grant the renewal, until the time for bringing an appeal has expired and until the matter is finally disposed of.

9. A further application for registration may be made upon new or other evidence or where it is clear that material circumstances have changed. Further applications

SALE AGREEMENT

10.—(1) A sale agreement shall be in writing and shall, Form of agreement

- (a) subject to subsection (2), contain a description of the farm implement, including its serial and model number;
- (b) show separately the purchase price,
 - (i) for each farm implement to which it relates, and
 - (ii) for each attachment to the farm implement if the attachment and the farm implement are not supplied by the same distributor;
- (c) include a description of and the allowance for any trade-in;
- (d) state the date of delivery to the purchaser;
- (e) contain the name and address of the purchaser, dealer and distributor;
- (f) in the case of a new farm implement, include a statement of the nature and duration of,
 - (i) the warranties provided under this Act, and
 - (ii) any additional or extended warranties;
- (g) in the case of a used farm implement,
 - (i) include a statement of the nature and duration of all warranties given in connection with the farm implement and any exclusions from the warranties, or
 - (ii) if no warranty is given, include a statement to that effect; and
- (h) contain such other information as may be prescribed.

Where
information
not available

(2) If the serial or model number of the farm implement is not available when the sale agreement is entered into, the dealer shall provide the information to the purchaser on or before delivery of the farm implement to the purchaser.

Warranty
separate from
sale
agreement

(3) Despite subclause (1) (f) (ii), an additional or extended warranty may be set out elsewhere than in the sale agreement if it identifies the farm implement to which it applies and is delivered to the purchaser on or before delivery of the farm implement.

Obligation of
dealer to
repair

(4) It is a condition of every sale agreement that the dealer shall, on receiving the distributor's authorization, perform any work on the farm implement or a repair part for the farm implement that is required by a warranty that the distributor is liable to honour under this Act.

Effective
date of sale
agreement

11.—(1) A sale agreement is not effective until the earlier of the date on which,

- (a) the agreement is signed by the purchaser and the dealer or the dealer's authorized agent and a copy of the agreement is delivered to the purchaser; or
- (b) the purchaser takes delivery of the farm implement under the agreement.

Copies of
sale
agreement

(2) A dealer shall keep a copy of a sale agreement for at least two years from its effective date.

WARRANTIES

Warranty as
to power

12.—(1) A sale agreement shall state,

- (a) in the case of a new tractor, its engine horsepower or power takeoff power; and
- (b) in the case of any other new farm implement that is or has an engine or motor, its engine horsepower,

as shown in the manufacturer's specifications.

Idem

(2) A farm implement is warranted to develop the power stated in the sale agreement if it is properly operated and maintained and used under reasonable operating conditions.

Implied
warranty as
to quality

13. On the sale of a new farm implement there is an implied warranty that the farm implement,

- (a) is properly constructed as to material, design and workmanship; and
- (b) will perform to manufacturer's specifications the work for which it is intended if it is properly operated and maintained and used under reasonable operating conditions.

14.—(1) The warranties provided under sections 12 (power) and 13 (quality) take effect on the date of delivery of the farm implement to the purchaser and continue for the following periods:

Duration of warranties under ss. 12 and 13

- 1. In the case of tractors, the lesser of one year or 1,000 hours of operation.
- 2. In the case of combines, the lesser of one year or 500 hours of operation.
- 3. In all other cases, one year.

(2) Except in the case of a *bona fide* exchange or repair of an hour meter, no person shall alter, adjust or permit any alteration or adjustment to the hour meter on a farm implement in the person's possession or control so as to cause the total number of hours indicated on the hour meter to be different from the total number of hours that the farm implement has been operated.

Alteration of hour meter prohibited

(3) A person who exchanges or repairs the hour meter on a farm implement, or another part of the farm implement that is directly related to the hour meter, shall make a record of the reading that was on the hour meter before the exchange or repair.

Exchange or repair of hour meter

15. On the sale of a new farm implement there is an implied warranty that a sufficient supply of repair parts for the farm implement will be available to the purchaser for a period of ten years from the effective date.

Implied warranty as to supply of repair parts

16.—(1) On the sale of a new repair part there is an implied warranty that the repair part will be free from defects in material or workmanship for a period of ninety days from the date of purchase or, if purchased out of the season of use, ninety days from the date it is first used by the purchaser in the next season of use.

Implied warranty as to quality of repair parts

(2) The warranty under subsection (1) applies only if the part is purchased from an authorized dealer and supplied by

Idem

the same distributor who supplied the farm implement for which the part is intended.

Additional warranties

17.—(1) A distributor or dealer may give a warranty in respect of a farm implement or a repair part that affords greater protection or that has a longer duration than the warranties under this Act.

No contracting out

(2) The warranties under this Act apply to a sale agreement despite an agreement or waiver to the contrary, and any such agreement or waiver is severable from the sale agreement.

Liability for warranties

18.—(1) The distributor of a new farm implement is liable to the purchaser to honour the warranties under sections 12 (power) and 13 (quality).

Idem

(2) The dealer and distributor of a new farm implement are jointly and severally liable to the purchaser to honour the warranty under section 15 (parts supply).

Idem

(3) The distributor who supplies a new repair part is liable to the purchaser to honour the warranty under section 16 (quality of parts).

Idem

(4) If a farm implement is damaged as a result of a breach of the warranty under section 16 (quality of parts), the distributor of the repair part is liable for the cost of repairing the farm implement.

Repairs under warranty

(5) A dealer or distributor making repairs to a farm implement under a warranty provided by this Act shall use new repair parts that are of the standard and size specified by the manufacturer for that farm implement, unless the purchaser and the distributor authorize in writing the use of different parts.

Recall of defective farm implements

(6) If a distributor is or should be aware that a significant percentage of farm implements sold by the distributor exhibit a common defect, the distributor shall notify purchasers of the defect and of the distributor's obligation to repair the defective farm implements.

Repair

(7) The distributor shall repair the defective farm implements at the distributor's expense, including any transportation costs.

REPAIR PARTS

Definition

19.—(1) In this section, "emergency repair parts" means parts required to repair a farm implement where the farm

implement breaks down during the season of use within ten years of the effective date and cannot be satisfactorily operated.

(2) Where a purchaser notifies in writing any dealer of the distributor of a farm implement that the farm implement requires emergency repair parts, the dealer shall forthwith order the emergency repair parts from the distributor.

Obligation of dealer

(3) Where a distributor receives an order under subsection (2), the distributor shall ensure that the parts are available at the dealer's place of business within three working days from the day the order was placed, unless delivery of the parts cannot be made within that time because of conditions beyond the distributor's control.

Obligation of distributor

(4) No price for emergency repair parts shall exceed the manufacturer's suggested list price, except that the dealer or distributor may add to the price,

Price of emergency repair parts

- (a) a service charge not exceeding the prescribed amount for each order for emergency repair parts; and
- (b) the amount of any costs reasonably incurred in supplying the emergency repair part to the purchaser.

(5) If, on receiving notice under subsection (2), the dealer fails to properly place an order for emergency repair parts, the dealer shall be liable to supply the purchaser with a satisfactory substitute farm implement, within three working days from the day notice was given, at one-half of the prescribed normal rental rate for that implement.

Provision of substitute

(6) If the dealer is unable to provide a satisfactory substitute farm implement, the dealer shall be liable to reimburse the purchaser one-half of the prescribed normal rental rate for a substitute farm implement rented from a third party.

Idem

(7) If, within the time specified under subsection (3), the distributor fails to provide the emergency repair parts, the distributor shall be liable to pay one-half of the prescribed normal rental rate for a substitute farm implement rented by the purchaser from the dealer or a third party.

Distributor's liability

(8) No person shall rent a farm implement to a purchaser in the circumstances mentioned in subsection (5) or (6) for more than the prescribed normal rental rate for that implement.

Offence

Return of
defective
repair part

20. Where a purchaser receives a replacement part under a warranty for a defective repair part of a farm implement, the purchaser shall return the defective repair part to the dealer who supplied the replacement part within ten days after it is replaced.

FAILURE TO PERFORM

Definitions

21.—(1) For the purposes of section 22,

“defective farm implement” means a farm implement in respect of which notice has been given under section 22;

“fair market value” means fair market value as of the date the sale agreement was made.

Determi-
nation of fair
market value

(2) For the purpose of determining the fair market value of a trade-in under subsection 22 (8) or (9), regard may be had to any publication of farm implement prices in general use in the farm implement industry in Canada.

Failure to
perform

22.—(1) If, within the twelve months following its delivery to the purchaser, a new farm implement that is properly operated and maintained and used under reasonable operating conditions fails to perform to the manufacturer's specifications during its first ten days or first 100 hours of actual use, whichever occurs first, the purchaser may give notice of the farm implement's failure to perform.

Notice

(2) The notice referred to in subsection (1) shall be given in writing as soon as possible after the failure occurs, and in any event within ten days of the failure,

(a) to the selling dealer; or

(b) if the selling dealer is no longer in business, to the Board,

and the dealer or the Board shall notify the distributor forthwith of the notice and its contents.

Repair

(3) The dealer or distributor shall endeavour to make the defective farm implement perform to the manufacturer's specifications within four working days after the dealer or distributor receives notice of the failure, or as soon as possible thereafter when reasonable operating conditions exist for the farm implement.

Substitute

(4) If the dealer or distributor fails to make the defective farm implement perform to the manufacturer's specifications,

the dealer or distributor shall forthwith provide the purchaser with a satisfactory substitute for the purchaser's use until the defective farm implement is made to perform to the manufacturer's specifications or is replaced or until the sale agreement is terminated under clause (5) (b).

(5) If, within fourteen working days after providing the substitute farm implement to the purchaser, the dealer or distributor fails to make the defective farm implement perform to the manufacturer's specifications, Replacement
or
termination

(a) the distributor shall replace the defective farm implement with a farm implement that is satisfactory to the purchaser; or

(b) the dealer shall terminate the sale agreement in so far as it relates to the defective farm implement.

(6) Subject to subsections (7), (8) and (9), when a sale agreement is terminated under clause (5) (b), Refund and
return of
trade-in

(a) the distributor shall refund to the purchaser through the dealer the amount remitted to the distributor for the defective farm implement; and

(b) the dealer shall refund to the purchaser the balance of the amount paid for the defective farm implement and shall return any trade-in made in connection with the sale.

(7) The dealer or distributor may deduct from the amount owing to the purchaser, Deduction
for repairs
to trade-in

(a) the reasonable costs of repairing or reconditioning the trade-in that were incurred before the termination of the sale agreement; and

(b) a reasonable amount of compensation for the actual use of the farm implement by the purchaser.

(8) If the dealer does not return the trade-in, the dealer shall pay to the purchaser an amount equal to the fair market value of the trade-in. Where
trade-in
not returned

(9) If the defective farm implement was purchased under a sale agreement that relates to more than one farm implement and includes a trade-in arrangement, the dealer or distributor may, unless the purchaser agrees otherwise, Sale
agreement
for more
than one
farm
implement

- (a) keep the trade-in and pay to the purchaser an amount of money that bears the same proportion to the fair market value of the trade-in as the purchase price of the defective farm implement bears to the total purchase price of all the farm implements purchased under the agreement; or
- (b) return the trade-in and refund to the purchaser the part of the total purchase price that was paid in respect of the defective farm implement.

Obligations
re financing
agreement

(10) If the purchase of the defective farm implement is financed in whole or in part through a financing agreement with a third party and the sale agreement relating to it is terminated under clause (5) (b), the distributor shall be liable,

- (a) to satisfy the payment obligations under the financing agreement that relate to the defective farm implement, including any penalty for accelerated payment; and
- (b) to discharge any registrations against the farm implement or against the purchaser in connection with that farm implement under the *Bank Act* (Canada), the *Personal Property Security Act* and the *Corporation Securities Registration Act*.

1980-81,
c. 40 (Can.)
R.S.O. 1980,
cc. 375, 94

BUY-BACK PROVISIONS

Definitions

23.—(1) For the purposes of sections 24 to 30,

“agreement” means an agreement between a dealer and a distributor under which the dealer is required by the distributor to maintain an inventory of new farm implements and parts supplied by the distributor;

“current net price” means the price listed in the distributor’s price list or catalogue in effect at the time the agreement is terminated;

“invoice price” means the price actually paid by the dealer for the new farm implement and, in respect of a new farm implement that has been rented pursuant to a written rental program approved by the distributor, means the price actually paid by the dealer for the new farm implement less the amount of any rental payments submitted to the distributor;

“new farm implement” means a farm implement that is not a used farm implement and includes,

- (a) a farm implement that has been operated by or on behalf of a dealer pursuant to a written demonstration program sponsored by the distributor, and
- (b) a farm implement that has been rented pursuant to a written rental program approved by the distributor;

“new part” means a part or parts assembly that has not been used and has not been removed from a complete farm implement;

“used farm implement” means a farm implement that has been operated for a distance or for a period of time in excess of that required to deliver it to the dealer and to enable the dealer to service, prepare and operate it for the purposes of sale.

(2) Sections 24 to 30 apply to an agreement that is in effect on or after the day this Act comes into force. Application

(3) Subject to subsection (4), sections 24 to 30 apply to an agreement despite any agreement or waiver to the contrary. No contracting out

(4) A distributor and a dealer may agree in writing to repurchase terms that are more favourable to the dealer than the provisions of sections 24 to 30. Exception

24.—(1) Within ninety days after a distributor terminates an agreement or fails to renew an agreement that has expired, a dealer may by written notice require the distributor to repurchase all or any new farm implements and new parts supplied by the distributor under the agreement. Notice to repurchase

(2) The notice to repurchase shall state whether the dealer intends to rely on, Election

(a) the provisions of this section and sections 25 to 30; or

(b) the terms of an agreement with the distributor under subsection 23 (4).

(3) If the dealer fails to make the election under subsection (2), the dealer shall be deemed to have elected to rely on the provisions of this section and sections 25 to 30. Where no election made

25.—(1) The distributor shall pay a repurchase amount to the dealer equal to, Repurchase price

- (a) 100 per cent of the invoice price for each new farm implement; and
- (b) 85 per cent of the current net price for each new part,

plus transportation costs paid by the dealer for delivery of the new farm implement to the dealer's place of business.

Other
amounts
owing

(2) In addition to the amount payable under subsection (1), the distributor shall pay any other amount owing to the dealer by the distributor.

Time for
payment

26.—(1) The repurchase amount payable to the dealer by the distributor is due on the earlier of,

- (a) the ninety-first day after the distributor receives the notice of repurchase; and
- (b) the thirtieth day after the distributor takes possession of the new farm implements and parts that are the subject of the notice.

Interest

(2) Interest at the prescribed rate shall be payable on any part of the repurchase amount that is unpaid after the due date.

Extension of
time

(3) The dealer and distributor may agree to extend the time for payment.

Set-off

(4) A distributor may deduct from the repurchase amount any amount owing to the distributor by the dealer.

Deduction
for missing
part, etc.

(5) A distributor may deduct from the repurchase amount the current net price, including a reasonable installation charge, for the replacement of any part of a new farm implement that is missing or damaged.

Repurchase
not required

27. A distributor is not required to repurchase,

- (a) a new part that is broken or damaged;
- (b) a new parts assembly that is incomplete and cannot be completed at reasonable expense;
- (c) a new part or parts assembly that has been removed from a farm implement and replaced at no cost to the dealer under a modification or warranty substitution program;

- (d) a new part that is a seal or hose made of rubber, a gasket made of cork or a composition of materials, a seal made of leather, a liquid chemical that has deteriorated and is of limited use, or paint;
- (e) a new part that is not clearly identified, or that is not resaleable as a new part without repackaging or reconditioning;
- (f) a new part that is not listed in the distributor's current parts record-keeping system;
- (g) a new farm implement that is an attachment that,
 - (i) is not identifiable by a whole goods' invoice,
 - (ii) is not resaleable as a new attachment without repackaging or reconditioning, or
 - (iii) does not fit a current new farm implement;
- (h) a new farm implement or new part that has not been adequately prepared for shipment by the dealer within the ninety day period or extension of that period referred to in subsection 28 (2);
- (i) a new farm implement that was shipped to the dealer more than 36 months before the distributor receives the notice of repurchase, unless the agreement is terminated by the distributor or the dealer has ceased to be a dealer.

28.—(1) The dealer is responsible for the care of a new farm implement or new part until the earlier of,

Responsi-
bility for
care

- (a) the ninety-first day after the distributor receives the notice to repurchase; and
- (b) the day the distributor takes possession of the new farm implements and new parts,

and thereafter the distributor is responsible.

(2) Despite clause (1) (a), the dealer and distributor may agree to extend the time during which the dealer is responsible.

Extension of
time

(3) The dealer is responsible for preparing or packaging all new farm implements and all new parts so that they are

Preparing
implements
and parts for
shipment

acceptable by a carrier for shipment at the distributor's expense from the dealer's place of business.

R.S.O. 1980,
c. 52 does
not apply

29. The *Bulk Sales Act* does not apply to a sale to a distributor under section 24.

Distributor
to furnish
information

30. A distributor shall provide to the Board, on request, copies of agreements in effect between the distributor and the dealer respecting the supply or return of new farm implements or new parts.

MISCELLANEOUS PROVISIONS

Alteration of
serial number

31.—(1) No person shall,

- (a) alter or remove the serial number on a farm implement; or
- (b) buy, sell or otherwise deal in a farm implement if the serial number has been altered or removed, unless authorized to do so by the Board.

Obligation of
dealer

(2) Subject to subsection 10 (2), no dealer shall sell or offer for sale a new farm implement unless the serial number is stamped on the implement or affixed thereto.

Service of
notice

32.—(1) A notice required to be given to a dealer or distributor may be served personally or sent by registered mail to the address of the dealer or distributor as shown in the records of the Board.

Deemed
receipt

(2) A notice that is sent by registered mail shall be deemed to have been received on the fifth day after it is mailed.

Rights, etc.,
preserved

33. The rights, duties and remedies provided by this Act are in addition to the rights, duties and remedies under any other Act and the common law.

Offence and
penalty

34.—(1) Every person and every officer or director of a corporation who contravenes a provision of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

Corporations

(2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed on the corporation is \$25,000.

Regulations

35. Subject to the approval of the Lieutenant Governor in Council, the Board may make regulations,

- (a) exempting a farm implement or a class of farm implements from any provision of this Act or the regulations;
- (b) prescribing, for the purposes of section 2, the amount that the manufacturer's suggested list price of a farm implement must equal or exceed;
- (c) prescribing information to be included in agreements referred to in subsection 3 (4);
- (d) prescribing forms and providing for their use;
- (e) prescribing the composition of the Board;
- (f) governing applications for registration or renewal of registration and prescribing conditions of registration;
- (g) requiring the payment of fees of an application for registration or renewal of registration and prescribing the amount of the fees;
- (h) prescribing information to be included in sale agreements;
- (i) requiring dealers and distributors to provide to the Board prescribed information respecting their business operations and prescribing the times at which the information is to be provided and the form in which it is to be provided;
- (j) regulating the provision of emergency parts for farm implements, including imposing duties on distributors and dealers;
- (k) prescribing normal rental rates for the purposes of section 19;
- (l) prescribing, for the purposes of subsection 19 (4), the maximum amount of the service charge payable in respect of an order for emergency repair parts;
- (m) fixing the rate of interest for the purposes of subsection 26 (2);
- (n) regulating or prohibiting the installation or use of any farm implement, part or device or any class thereof;

- (o) requiring that any farm implement or part bear the seal of approval of an organization designated by the regulations to test and approve the farm implement or part, and designating organizations for such purposes;
- (p) prescribing standards for farm implement performance;
- (q) prescribing standards for dealers respecting safety information and instruction to be given to purchasers on the sale of a farm implement;
- (r) adopting by reference, in whole or in part, with such changes as the Board considers necessary, any code or standard and requiring compliance with any code or standard that is so adopted.

Commence-
ment

36. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

37. The short title of this Act is the *Farm Implements Act, 1987*.

Bill 78

An Act respecting the Sale of Farm Implements

The Hon. J. Riddell

Minister of Agriculture and Food



<i>1st Reading</i>	December 16th, 1987
<i>2nd Reading</i>	November 15th, 1988
<i>3rd Reading</i>	
<i>Royal Assent</i>	

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

The Bill creates the Ontario Farm Implements Board whose functions include the registration of dealers and distributors of farm implements, the mediation of disputes between purchasers of farm implements and their dealers or distributors, and the supervision of safety measures relating to farm implements.

The Bill also regulates the sale of farm implements. It requires that sale agreements be in writing and include specified information with respect to the farm implement and the terms of the sale. It provides minimum warranties on the sale of new farm implements as to power and quality and as to the supply and quality of repair parts. Provision is also made for the supply of emergency repair parts and for the return or replacement of defective farm implements.

In addition, the Bill regulates the repurchase of a dealer's unused farm implements by the distributor who supplied them on the termination by the distributor of the agreement to supply the farm implements.

Bill 78

1987

An Act respecting the Sale of Farm Implements

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

"Board" means the Ontario Farm Implements Board established under section 4;

“chairperson” means the chairperson designated under subsection 4 (3);

“dealer” means a person who, in the ordinary course of business, offers farm implements for sale at retail;

“distributor” means a person, including a manufacturer, who, in the ordinary course of business, sells, consigns or delivers farm implements or parts to a dealer;

“effective date” means the date determined under section 11;

“farm implement” means any equipment or machinery designed and used for agricultural or horticultural use and includes attachments;

“Minister” means the Minister of Agriculture and Food;

“prescribed” means prescribed by the regulations made under this Act;

“purchaser” means a person, an association of individuals or a partnership who purchases a farm implement;

“sale agreement” means an agreement between a purchaser, other than a distributor, and a dealer for the sale of a new or used farm implement;

“trade-in” means a farm implement or other property that is purchased by the dealer under a trade-in arrangement;

“trade-in allowance” means the amount shown in a sale agreement as the amount accepted by the dealer as the value of a trade-in under a trade-in arrangement;

“trade-in arrangement” means an arrangement, whether contained in a sale agreement or made by a separate agreement in conjunction with a sale agreement, whereby the purchaser agrees to sell the purchaser’s own farm implement or other property to the dealer and the farm implement or other property is accepted as the whole or part of the consideration under the sale agreement;

“vice-chairperson” means the vice-chairperson designated under subsection 4 (3).

Application

2.—(1) This Act does not apply to the sale of a farm implement,

- (a) by a person in the ordinary course of farming operations;
- (b) by an executor or administrator; or
- (c) by a public official acting under judicial process.

(2) This Act does not apply to the sale of a farm implement with a manufacturer's suggested list price that is less than the prescribed amount. Idem

3.—(1) A dealer shall not sell or offer for sale a new farm implement unless it was obtained by the dealer from a distributor or another dealer registered under this Act. Sales of farm implements

(2) Subsection (1) does not apply with respect to a new farm implement that is in the dealer's possession before this Act comes into force. Transition

(3) A distributor shall not sell a new farm implement to any person except a dealer or another distributor registered under this Act. Sales by distributor

(4) An agreement between a distributor and a dealer respecting the purchase and sale of a farm implement shall be in writing and shall contain such information as may be prescribed. Agreement in writing

BOARD AND INSPECTORS

4.—(1) The Ontario Farm Implements Board is hereby established and shall consist of not less than seven members appointed by the Minister. Ontario Farm Implements Board established

(2) The composition of the Board shall be as prescribed. Composition

(3) The Minister may designate one of the members of the Board as chairperson and one of the members as vice-chairperson. Chairperson, vice-chairperson

(4) The chairperson of the Board shall have general supervision and direction over the conduct of the affairs of the Board and, in the absence of the chairperson or if he or she is unable to act, the vice-chairperson shall have all the powers of the chairperson. Chairperson to have supervision

(5) The members of the Board may be appointed to hold office for a term not exceeding three years and may be reappointed for a further term or terms, but no member shall hold Term of office

office for more than a total of six years, whether the member's appointments are for consecutive terms or not.

Remuneration
and expenses

(6) The members of the Board who are not public servants of Ontario shall be paid such remuneration and expenses as may be fixed by the Lieutenant Governor in Council.

Board
proceedings

(7) The Board may make rules for the conduct and management of its affairs and for the practice and procedure to be observed in matters before it, and may require that a person seeking a determination of a matter by the Board give written notice, in the form and manner that the Board specifies, to the persons that the Board specifies.

Powers and
duties of
Board

5.—(1) The Board may exercise the powers and shall perform the duties that are conferred or imposed upon it by or under this Act.

Incidental
powers

(2) Without limiting the generality of subsection (1), the Board has power,

- (a) to require the production of documents, records, reports or things that the Board considers necessary to permit it to investigate and consider any matter within its jurisdiction;
- (b) to accept such oral or written evidence as it in its discretion considers proper, whether admissible in a court of law or not;
- (c) on the request of a purchaser, dealer or distributor, to inquire into and resolve a dispute with respect to any matter arising from the application of this Act or the regulations;
- (d) to investigate claims regarding charges by dealers for repairs to farm implements; and
- (e) to make such inquiries and orders as are necessary to ensure that there is compliance with its decisions.

Mediator

(3) Where a request is made to the Board under clause (2) (c) or (d), the Board may appoint a mediator to resolve the dispute.

Hearing

(4) If the mediator is unable to resolve the dispute, any of the parties to the mediation may apply to the Board for a hearing.

(5) The Board shall decide the issue that is before it for a hearing and shall serve notice of the decision, together with written reasons, on the parties to the hearing.

Decision

(6) An appeal from a decision of the Board on a question of law may be made to the Divisional Court.

Appeal

(7) Subsections 8 (2) to (6), both inclusive, apply with necessary modifications to an appeal under subsection (6).

Application of s. 8 (2-6)

- (8) The Board is responsible for ensuring compliance with,
- Farm implement standards and safety
- (a) the prescribed safety standards for farm implement performance; and
 - (b) the prescribed requirements for dealers respecting safety information and instruction to be given to purchasers on the sale of new farm implements.

(9) The Board may conduct research related to farm implement design, construction, performance and safety.

Research

(10) The Board may develop and co-ordinate or approve educational programs respecting farm implement safety and may promote participation in such programs.

Education

(11) The Board may work with manufacturers to encourage standardization of the design and operation of controls of farm implements manufactured for sale in Ontario.

Standardization

(12) Part I of the *Statutory Powers Procedure Act* applies to proceedings of the Board.

Application of R.S.O. 1980, c. 484

REGISTRATION OF DEALERS AND DISTRIBUTORS

6.—(1) No person shall carry on the business of a dealer or distributor unless the person is registered under this Act.

Registration required

(2) An applicant for registration or renewal of registration as a dealer or distributor is entitled to registration or renewal on submitting a completed application, together with the prescribed fee.

Entitlement to registration

(3) A registration is subject to such conditions to give effect to the purposes of this Act as are prescribed by the regulations.

Conditions of registration

7. Subject to section 8, the Board may refuse to grant or renew or may suspend or revoke a registration if the applicant

Refusal to register, revocation

is in breach of a condition of the registration or a provision of this Act or the regulations, or would be if registered.

Notice of
decision to
refuse or
revoke

8.—(1) If the Board decides to refuse to grant or renew a registration or decides to suspend or revoke a registration, it shall serve notice of its decision, together with written reasons, on the applicant or registrant.

Appeal to
Divisional
Court

(2) A notice under subsection (1) shall inform the applicant or registrant that he or she may appeal from the decision to the Divisional Court in accordance with the rules of court within fifteen days from the day on which the decision was served.

Certified
copies of
papers

(3) On the request of any person desiring to appeal, the chairperson shall furnish such person with a certified copy of all proceedings, evidence, reports and papers received in evidence by the Board in dealing with and disposing of the application.

Procedure
and record

(4) An appeal under this section shall be by motion, notice of which shall be served on the chairperson, and the record shall consist of a copy, certified by the chairperson, of the proceedings of the Board, the evidence taken, and the findings and decisions of the Board in the matter.

Orders

(5) Upon the hearing of an appeal under this section, the Divisional Court may make such order as it considers proper or may refer the matter back to the Board with such directions as the court considers proper.

Costs

(6) The Divisional Court may make such orders as to the costs of the appeal as the court considers proper.

Voluntary
cancellation

(7) Despite subsection (1), the Board may cancel a registration on the request in writing of the registrant.

Continuation
of registration
pending
renewal

(8) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of the registration, a registrant has applied for renewal of the registration and paid the prescribed fee, the registration continues in force,

(a) until the renewal is granted; or

(b) where the registrant is served with notice of the Board's decision to refuse to grant the renewal, until the time for bringing an appeal has expired and until the matter is finally disposed of.

9. A further application for registration may be made upon new or other evidence or where it is clear that material circumstances have changed. Further applications

SALE AGREEMENT

- 10.**—(1) A sale agreement shall be in writing and shall, Form of agreement
- (a) subject to subsection (2), contain a description of the farm implement, including its serial and model number;
 - (b) show separately the purchase price,
 - (i) for each farm implement to which it relates, and
 - (ii) for each attachment to the farm implement if the attachment and the farm implement are not supplied by the same distributor;
 - (c) include a description of and the allowance for any trade-in;
 - (d) state the date of delivery to the purchaser;
 - (e) contain the name and address of the purchaser, dealer and distributor;
 - (f) in the case of a new farm implement, include a statement of the nature and duration of,
 - (i) the warranties provided under this Act, and
 - (ii) any additional or extended warranties;
 - (g) in the case of a used farm implement,
 - (i) include a statement of the nature and duration of all warranties given in connection with the farm implement and any exclusions from the warranties, or
 - (ii) if no warranty is given, include a statement to that effect; and
 - (h) contain such other information as may be prescribed.

Where
information
not available

(2) If the serial or model number of the farm implement is not available when the sale agreement is entered into, the dealer shall provide the information to the purchaser on or before delivery of the farm implement to the purchaser.

Warranty
separate from
sale
agreement

(3) Despite subclause (1) (f) (ii), an additional or extended warranty may be set out elsewhere than in the sale agreement if it identifies the farm implement to which it applies and is delivered to the purchaser on or before delivery of the farm implement.

Obligation of
dealer to
repair

(4) It is a condition of every sale agreement that the dealer shall, on receiving the distributor's authorization, perform any work on the farm implement or a repair part for the farm implement that is required by a warranty that the distributor is liable to honour under this Act.

Effective
date of sale
agreement

11.—(1) A sale agreement is not effective until the earlier of the date on which,

- (a) the agreement is signed by the purchaser and the dealer or the dealer's authorized agent and a copy of the agreement is delivered to the purchaser; or
- (b) the purchaser takes delivery of the farm implement under the agreement.

Copies of
sale
agreement

(2) A dealer shall keep a copy of a sale agreement for at least two years from its effective date.

WARRANTIES

Warranty as
to power

12.—(1) A sale agreement shall state,

- (a) in the case of a new tractor, its engine horsepower or power takeoff power; and
- (b) in the case of any other new farm implement that is or has an engine or motor, its engine horsepower,

as shown in the manufacturer's specifications.

Idem

(2) A farm implement is warranted to develop the power stated in the sale agreement if it is properly operated and maintained and used under reasonable operating conditions.

Implied
warranty as
to quality

13. On the sale of a new farm implement there is an implied warranty that the farm implement,

- (a) is properly constructed as to material, design and workmanship; and
- (b) will perform to manufacturer's specifications the work for which it is intended if it is properly operated and maintained and used under reasonable operating conditions.

14.—(1) The warranties provided under sections 12 (power) and 13 (quality) take effect on the date of delivery of the farm implement to the purchaser and continue for the following periods:

Duration of warranties under ss. 12 and 13

1. In the case of tractors, the lesser of one year or 1,000 hours of operation.
2. In the case of combines, the lesser of one year or 500 hours of operation.
3. In all other cases, one year.

(2) Except in the case of a *bona fide* exchange or repair of an hour meter, no person shall alter, adjust or permit any alteration or adjustment to the hour meter on a farm implement in the person's possession or control so as to cause the total number of hours indicated on the hour meter to be different from the total number of hours that the farm implement has been operated.

Alteration of hour meter prohibited

(3) A person who exchanges or repairs the hour meter on a farm implement, or another part of the farm implement that is directly related to the hour meter, shall make a record of the reading that was on the hour meter before the exchange or repair.

Exchange or repair of hour meter

15. On the sale of a new farm implement there is an implied warranty that a sufficient supply of repair parts for the farm implement will be available to the purchaser for a period of ten years from the effective date.

Implied warranty as to supply of repair parts

16.—(1) On the sale of a new repair part there is an implied warranty that the repair part will be free from defects in material or workmanship for a period of ninety days from the date of purchase or, if purchased out of the season of use, ninety days from the date it is first used by the purchaser in the next season of use.

Implied warranty as to quality of repair parts

(2) The warranty under subsection (1) applies only if the part is purchased from an authorized dealer and supplied by

Idem

the same distributor who supplied the farm implement for which the part is intended.

Additional warranties

17.—(1) A distributor or dealer may give a warranty in respect of a farm implement or a repair part that affords greater protection or that has a longer duration than the warranties under this Act.

No contracting out

(2) The warranties under this Act apply to a sale agreement despite an agreement or waiver to the contrary, and any such agreement or waiver is severable from the sale agreement.

Liability for warranties

18.—(1) The distributor of a new farm implement is liable to the purchaser to honour the warranties under sections 12 (power) and 13 (quality).

Idem

(2) The dealer and distributor of a new farm implement are jointly and severally liable to the purchaser to honour the warranty under section 15 (parts supply).

Idem

(3) The distributor who supplies a new repair part is liable to the purchaser to honour the warranty under section 16 (quality of parts).

Idem

(4) If a farm implement is damaged as a result of a breach of the warranty under section 16 (quality of parts), the distributor of the repair part is liable for the cost of repairing the farm implement.

Repairs under warranty

(5) A dealer or distributor making repairs to a farm implement under a warranty provided by this Act shall use new repair parts that are of the standard and size specified by the manufacturer for that farm implement, unless the purchaser and the distributor authorize in writing the use of different parts.

Recall of defective farm implements

(6) If a distributor is or should be aware that a significant percentage of farm implements sold by the distributor exhibit a common defect, the distributor shall notify purchasers of the defect and of the distributor's obligation to repair the defective farm implements.

Repair

(7) The distributor shall repair the defective farm implements at the distributor's expense, including any transportation costs.

REPAIR PARTS

Definition

19.—(1) In this section, "emergency repair parts" means parts required to repair a farm implement where the farm

implement breaks down during the season of use within ten years of the effective date and cannot be satisfactorily operated.

(2) Where a purchaser notifies in writing any dealer of the distributor of a farm implement that the farm implement requires emergency repair parts, the dealer shall forthwith order the emergency repair parts from the distributor.

Obligation of dealer

(3) Where a distributor receives an order under subsection (2), the distributor shall ensure that the parts are available at the dealer's place of business within three working days from the day the order was placed, unless delivery of the parts cannot be made within that time because of conditions beyond the distributor's control.

Obligation of distributor

(4) No price for emergency repair parts shall exceed the manufacturer's suggested list price, except that the dealer or distributor may add to the price,

Price of emergency repair parts

(a) a service charge not exceeding the prescribed amount for each order for emergency repair parts; and

(b) the amount of any costs reasonably incurred in supplying the emergency repair part to the purchaser.

(5) If, on receiving notice under subsection (2), the dealer fails to properly place an order for emergency repair parts, the dealer shall be liable to supply the purchaser with a satisfactory substitute farm implement, within three working days from the day notice was given, at one-half of the prescribed normal rental rate for that implement.

Provision of substitute

(6) If the dealer is unable to provide a satisfactory substitute farm implement, the dealer shall be liable to reimburse the purchaser one-half of the prescribed normal rental rate for a substitute farm implement rented from a third party.

Idem

(7) If, within the time specified under subsection (3), the distributor fails to provide the emergency repair parts, the distributor shall be liable to pay one-half of the prescribed normal rental rate for a substitute farm implement rented by the purchaser from the dealer or a third party.

Distributor's liability

(8) No person shall rent a farm implement to a purchaser in the circumstances mentioned in subsection (5) or (6) for more than the prescribed normal rental rate for that implement.

Offence

Return of
defective
repair part

20. Where a purchaser receives a replacement part under a warranty for a defective repair part of a farm implement, the purchaser shall return the defective repair part to the dealer who supplied the replacement part within ten days after it is replaced.

FAILURE TO PERFORM

Definitions

21.—(1) For the purposes of section 22,

“defective farm implement” means a farm implement in respect of which notice has been given under section 22;

“fair market value” means fair market value as of the date the sale agreement was made.

Determi-
nation of fair
market value

(2) For the purpose of determining the fair market value of a trade-in under subsection 22 (8) or (9), regard may be had to any publication of farm implement prices in general use in the farm implement industry in Canada.

Failure to
perform

22.—(1) If, within the twelve months following its delivery to the purchaser, a new farm implement that is properly operated and maintained and used under reasonable operating conditions fails to perform to the manufacturer's specifications during its first ten days or first 100 hours of actual use, whichever occurs first, the purchaser may give notice of the farm implement's failure to perform.

Notice

(2) The notice referred to in subsection (1) shall be given in writing as soon as possible after the failure occurs, and in any event within ten days of the failure,

(a) to the selling dealer; or

(b) if the selling dealer is no longer in business, to the Board,

and the dealer or the Board shall notify the distributor forthwith of the notice and its contents.

Repair

(3) The dealer or distributor shall endeavour to make the defective farm implement perform to the manufacturer's specifications within four working days after the dealer or distributor receives notice of the failure, or as soon as possible thereafter when reasonable operating conditions exist for the farm implement.

Substitute

(4) If the dealer or distributor fails to make the defective farm implement perform to the manufacturer's specifications,

the dealer or distributor shall forthwith provide the purchaser with a satisfactory substitute for the purchaser's use until the defective farm implement is made to perform to the manufacturer's specifications or is replaced or until the sale agreement is terminated under clause (5) (b).

(5) If, within fourteen working days after providing the substitute farm implement to the purchaser, the dealer or distributor fails to make the defective farm implement perform to the manufacturer's specifications, Replacement or termination

- (a) the distributor shall replace the defective farm implement with a farm implement that is satisfactory to the purchaser; or
- (b) the dealer shall terminate the sale agreement in so far as it relates to the defective farm implement.

(6) Subject to subsections (7), (8) and (9), when a sale agreement is terminated under clause (5) (b), Refund and return of trade-in

- (a) the distributor shall refund to the purchaser through the dealer the amount remitted to the distributor for the defective farm implement; and
- (b) the dealer shall refund to the purchaser the balance of the amount paid for the defective farm implement and shall return any trade-in made in connection with the sale.

(7) The dealer or distributor may deduct from the amount owing to the purchaser, Deduction for repairs to trade-in

- (a) the reasonable costs of repairing or reconditioning the trade-in that were incurred before the termination of the sale agreement; and
- (b) a reasonable amount of compensation for the actual use of the farm implement by the purchaser.

(8) If the dealer does not return the trade-in, the dealer shall pay to the purchaser an amount equal to the fair market value of the trade-in. Where trade-in not returned

(9) If the defective farm implement was purchased under a sale agreement that relates to more than one farm implement and includes a trade-in arrangement, the dealer or distributor may, unless the purchaser agrees otherwise, Sale agreement for more than one farm implement

- (a) keep the trade-in and pay to the purchaser an amount of money that bears the same proportion to the fair market value of the trade-in as the purchase price of the defective farm implement bears to the total purchase price of all the farm implements purchased under the agreement; or
- (b) return the trade-in and refund to the purchaser the part of the total purchase price that was paid in respect of the defective farm implement.

Obligations
re financing
agreement

(10) If the purchase of the defective farm implement is financed in whole or in part through a financing agreement with a third party and the sale agreement relating to it is terminated under clause (5) (b), the distributor shall be liable,

- (a) to satisfy the payment obligations under the financing agreement that relate to the defective farm implement, including any penalty for accelerated payment; and
- (b) to discharge any registrations against the farm implement or against the purchaser in connection with that farm implement under the *Bank Act* (Canada), the *Personal Property Security Act* and the *Corporation Securities Registration Act*.

1980-81,
c. 40 (Can.)
R.S.O. 1980,
cc. 375, 94

BUY-BACK PROVISIONS

Definitions

23.—(1) For the purposes of sections 24 to 30,

“agreement” means an agreement between a dealer and a distributor under which the dealer is required by the distributor to maintain an inventory of new farm implements and parts supplied by the distributor;

“current net price” means the price listed in the distributor’s price list or catalogue in effect at the time the agreement is terminated;

“invoice price” means the price actually paid by the dealer for the new farm implement and, in respect of a new farm implement that has been rented pursuant to a written rental program approved by the distributor, means the price actually paid by the dealer for the new farm implement less the amount of any rental payments submitted to the distributor;

“new farm implement” means a farm implement that is not a used farm implement and includes,

- (a) a farm implement that has been operated by or on behalf of a dealer pursuant to a written demonstration program sponsored by the distributor, and
- (b) a farm implement that has been rented pursuant to a written rental program approved by the distributor;

“new part” means a part or parts assembly that has not been used and has not been removed from a complete farm implement;

“used farm implement” means a farm implement that has been operated for a distance or for a period of time in excess of that required to deliver it to the dealer and to enable the dealer to service, prepare and operate it for the purposes of sale.

(2) Sections 24 to 30 apply to an agreement that is in effect on or after the day this Act comes into force. Application

(3) Subject to subsection (4), sections 24 to 30 apply to an agreement despite any agreement or waiver to the contrary. No contracting out

(4) A distributor and a dealer may agree in writing to repurchase terms that are more favourable to the dealer than the provisions of sections 24 to 30. Exception

24.—(1) Within ninety days after an agreement has expired or is terminated, a dealer may by written notice require the distributor to repurchase all or any new farm implements and new parts supplied by the distributor under the agreement. Notice to repurchase

(2) The notice to repurchase shall state whether the dealer intends to rely on, Election

(a) the provisions of this section and sections 25 to 30; or

(b) the terms of an agreement with the distributor under subsection 23 (4).

(3) If the dealer fails to make the election under subsection (2), the dealer shall be deemed to have elected to rely on the provisions of this section and sections 25 to 30. Where no election made

25.—(1) The distributor shall pay a repurchase amount to the dealer equal to, Repurchase price

- (a) 100 per cent of the invoice price for each new farm implement; and
- (b) 85 per cent of the current net price for each new part,

plus transportation costs paid by the dealer for delivery of the new farm implement to the dealer's place of business.

Other amounts owing

(2) In addition to the amount payable under subsection (1), the distributor shall pay any other amount owing to the dealer by the distributor.

Time for payment

26.—(1) The repurchase amount payable to the dealer by the distributor is due on the earlier of,

- (a) the ninety-first day after the distributor receives the notice of repurchase; and
- (b) the thirtieth day after the distributor takes possession of the new farm implements and parts that are the subject of the notice.

Interest

(2) Interest at the prescribed rate shall be payable on any part of the repurchase amount that is unpaid after the due date.

Extension of time

(3) The dealer and distributor may agree to extend the time for payment.

Set-off

(4) A distributor may deduct from the repurchase amount any amount owing to the distributor by the dealer.

Deduction for missing part, etc.

(5) A distributor may deduct from the repurchase amount the current net price, including a reasonable installation charge, for the replacement of any part of a new farm implement that is missing or damaged.

Repurchase not required

27. A distributor is not required to repurchase,

- (a) a new part that is broken or damaged;
- (b) a new parts assembly that is incomplete and cannot be completed at reasonable expense;
- (c) a new part or parts assembly that has been removed from a farm implement and replaced at no cost to the dealer under a modification or warranty substitution program;

- (d) a new part that is a seal or hose made of rubber, a gasket made of cork or a composition of materials, a seal made of leather, a liquid chemical that has deteriorated and is of limited use, or paint;
- (e) a new part that is not clearly identified, or that is not resaleable as a new part without repackaging or reconditioning;
- (f) a new part that is not listed in the distributor's current parts record-keeping system;
- (g) a new farm implement that is an attachment that,
 - (i) is not identifiable by a whole goods' invoice,
 - (ii) is not resaleable as a new attachment without repackaging or reconditioning, or
 - (iii) does not fit a current new farm implement;
- (h) a new farm implement or new part that has not been adequately prepared for shipment by the dealer within the ninety day period or extension of that period referred to in subsection 28 (2);
- (i) a new farm implement that was shipped to the dealer more than thirty-six months before the distributor receives the notice of repurchase.

28.—(1) The dealer is responsible for the care of a new farm implement or new part until the earlier of, Responsibility for care

- (a) the ninety-first day after the distributor receives the notice to repurchase; and
- (b) the day the distributor takes possession of the new farm implements and new parts,

and thereafter the distributor is responsible.

(2) Despite clause (1) (a), the dealer and distributor may agree to extend the time during which the dealer is responsible. Extension of time

(3) The dealer is responsible for preparing or packaging all new farm implements and all new parts so that they are acceptable by a carrier for shipment at the distributor's expense from the dealer's place of business. Preparing implements and parts for shipment

R.S.O. 1980,
c. 52 does
not apply

29. The *Bulk Sales Act* does not apply to a sale to a distributor under section 24.

Distributor
to furnish
information

30. A distributor shall provide to the Board, on request, copies of agreements in effect between the distributor and the dealer respecting the supply or return of new farm implements or new parts.

MISCELLANEOUS PROVISIONS

Alteration of
serial number

31.—(1) No person shall,

- (a) alter or remove the serial number on a farm implement; or
- (b) buy, sell or otherwise deal in a farm implement if the serial number has been altered or removed, unless authorized to do so by the Board.

Obligation of
dealer

(2) Subject to subsection 10 (2), no dealer shall sell or offer for sale a new farm implement unless the serial number is stamped on the implement or affixed thereto.

Idem

(3) No dealer shall sell or offer for sale a farm implement,

- (a) unless the farm implement complies with the prescribed safety standards; and
- (b) unless the dealer provides the purchaser with a statement that indicates compliance with the prescribed safety standards.

Service of
notice

32.—(1) A notice required to be given to a dealer or distributor may be served personally or sent by registered mail to the address of the dealer or distributor as shown in the records of the Board.

Deemed
receipt

(2) A notice that is sent by registered mail shall be deemed to have been received on the fifth day after it is mailed.

Rights, etc.,
preserved

33. The rights, duties and remedies provided by this Act are in addition to the rights, duties and remedies under any other Act and the common law.

Offence and
penalty

34.—(1) Every person and every officer or director of a corporation who contravenes a provision of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

(2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed on the corporation is \$25,000. Corporations

35. Subject to the approval of the Lieutenant Governor in Council, the Board may make regulations, Regulations

- (a) exempting a farm implement or a class of farm implements from any provision of this Act or the regulations;
- (b) prescribing, for the purposes of section 2, the amount that the manufacturer's suggested list price of a farm implement must equal or exceed;
- (c) prescribing information to be included in agreements referred to in subsection 3 (4);
- (d) prescribing forms and providing for their use;
- (e) prescribing the composition of the Board;
- (f) governing applications for registration or renewal of registration and prescribing conditions of registration;
- (g) requiring the payment of fees of an application for registration or renewal of registration and prescribing the amount of the fees;
- (h) prescribing information to be included in sale agreements;
- (i) requiring dealers and distributors to provide to the Board prescribed information respecting their business operations and prescribing the times at which the information is to be provided and the form in which it is to be provided;
- (j) regulating the provision of emergency parts for farm implements, including imposing duties on distributors and dealers;
- (k) prescribing normal rental rates for the purposes of section 19;
- (l) prescribing, for the purposes of subsection 19 (4), the maximum amount of the service charge payable in respect of an order for emergency repair parts;

- (m) fixing the rate of interest for the purposes of subsection 26 (2);
- (n) regulating or prohibiting the installation or use of any farm implement, part or device or any class thereof;
- (o) requiring that any farm implement or part bear the seal of approval of an organization designated by the regulations to test and approve the farm implement or part, and designating organizations for such purposes;
- (p) prescribing safety standards for farm implement performance;
- (q) prescribing standards for dealers respecting safety information and instruction to be given to purchasers on the sale of a farm implement;
- (r) adopting by reference, in whole or in part, with such changes as the Board considers necessary, any code or standard and requiring compliance with any code or standard that is so adopted.

Commence-
ment

36. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

37. The short title of this Act is the *Farm Implements Act*, 1988.

Bill 78

(Chapter 61
Statutes of Ontario, 1988)

An Act respecting the Sale of Farm Implements

The Hon. J. Riddell
Minister of Agriculture and Food



<i>1st Reading</i>	December 16th, 1987
<i>2nd Reading</i>	November 15th, 1988
<i>3rd Reading</i>	December 7th, 1988
<i>Royal Assent</i>	December 15th, 1988

Bill 78

1987

An Act respecting the Sale of Farm Implements

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

"Board" means the Ontario Farm Implements Board established under section 4;

“chairperson” means the chairperson designated under subsection 4 (3);

“dealer” means a person who, in the ordinary course of business, offers farm implements for sale at retail;

“distributor” means a person, including a manufacturer, who, in the ordinary course of business, sells, consigns or delivers farm implements or parts to a dealer;

“effective date” means the date determined under section 11;

“farm implement” means any equipment or machinery designed and used for agricultural or horticultural use and includes attachments;

“Minister” means the Minister of Agriculture and Food;

“prescribed” means prescribed by the regulations made under this Act;

“purchaser” means a person, an association of individuals or a partnership who purchases a farm implement;

“sale agreement” means an agreement between a purchaser, other than a distributor, and a dealer for the sale of a new or used farm implement;

“trade-in” means a farm implement or other property that is purchased by the dealer under a trade-in arrangement;

“trade-in allowance” means the amount shown in a sale agreement as the amount accepted by the dealer as the value of a trade-in under a trade-in arrangement;

“trade-in arrangement” means an arrangement, whether contained in a sale agreement or made by a separate agreement in conjunction with a sale agreement, whereby the purchaser agrees to sell the purchaser’s own farm implement or other property to the dealer and the farm implement or other property is accepted as the whole or part of the consideration under the sale agreement;

“vice-chairperson” means the vice-chairperson designated under subsection 4 (3).

Application

2.—(1) This Act does not apply to the sale of a farm implement,

- (a) by a person in the ordinary course of farming operations;
- (b) by an executor or administrator; or
- (c) by a public official acting under judicial process.

(2) This Act does not apply to the sale of a farm implement with a manufacturer's suggested list price that is less than the prescribed amount. Idem

3.—(1) A dealer shall not sell or offer for sale a new farm implement unless it was obtained by the dealer from a distributor or another dealer registered under this Act. Sales of farm implements

(2) Subsection (1) does not apply with respect to a new farm implement that is in the dealer's possession before this Act comes into force. Transition

(3) A distributor shall not sell a new farm implement to any person except a dealer or another distributor registered under this Act. Sales by distributor

(4) An agreement between a distributor and a dealer respecting the purchase and sale of a farm implement shall be in writing and shall contain such information as may be prescribed. Agreement in writing

BOARD AND INSPECTORS

4.—(1) The Ontario Farm Implements Board is hereby established and shall consist of not less than seven members appointed by the Minister. Ontario Farm Implements Board established

(2) The composition of the Board shall be as prescribed. Composition

(3) The Minister may designate one of the members of the Board as chairperson and one of the members as vice-chairperson. Chairperson, vice-chairperson

(4) The chairperson of the Board shall have general supervision and direction over the conduct of the affairs of the Board and, in the absence of the chairperson or if he or she is unable to act, the vice-chairperson shall have all the powers of the chairperson. Chairperson to have supervision

(5) The members of the Board may be appointed to hold office for a term not exceeding three years and may be reappointed for a further term or terms, but no member shall hold Term of office

office for more than a total of six years, whether the member's appointments are for consecutive terms or not.

Remuneration
and expenses

(6) The members of the Board who are not public servants of Ontario shall be paid such remuneration and expenses as may be fixed by the Lieutenant Governor in Council.

Board
proceedings

(7) The Board may make rules for the conduct and management of its affairs and for the practice and procedure to be observed in matters before it, and may require that a person seeking a determination of a matter by the Board give written notice, in the form and manner that the Board specifies, to the persons that the Board specifies.

Powers and
duties of
Board

5.—(1) The Board may exercise the powers and shall perform the duties that are conferred or imposed upon it by or under this Act.

Incidental
powers

(2) Without limiting the generality of subsection (1), the Board has power,

- (a) to require the production of documents, records, reports or things that the Board considers necessary to permit it to investigate and consider any matter within its jurisdiction;
- (b) to accept such oral or written evidence as it in its discretion considers proper, whether admissible in a court of law or not;
- (c) on the request of a purchaser, dealer or distributor, to inquire into and resolve a dispute with respect to any matter arising from the application of this Act or the regulations;
- (d) to investigate claims regarding charges by dealers for repairs to farm implements; and
- (e) to make such inquiries and orders as are necessary to ensure that there is compliance with its decisions.

Mediator

(3) Where a request is made to the Board under clause (2) (c) or (d), the Board may appoint a mediator to resolve the dispute.

Hearing

(4) If the mediator is unable to resolve the dispute, any of the parties to the mediation may apply to the Board for a hearing.

(5) The Board shall decide the issue that is before it for a hearing and shall serve notice of the decision, together with written reasons, on the parties to the hearing.

Decision

(6) An appeal from a decision of the Board on a question of law may be made to the Divisional Court.

Appeal

(7) Subsections 8 (2) to (6), both inclusive, apply with necessary modifications to an appeal under subsection (6).

Application of s. 8 (2-6)

(8) The Board is responsible for ensuring compliance with,

(a) the prescribed safety standards for farm implement performance; and

Farm implement standards and safety

(b) the prescribed requirements for dealers respecting safety information and instruction to be given to purchasers on the sale of new farm implements.

(9) The Board may conduct research related to farm implement design, construction, performance and safety.

Research

(10) The Board may develop and co-ordinate or approve educational programs respecting farm implement safety and may promote participation in such programs.

Education

(11) The Board may work with manufacturers to encourage standardization of the design and operation of controls of farm implements manufactured for sale in Ontario.

Standardization

(12) Part I of the *Statutory Powers Procedure Act* applies to proceedings of the Board.

Application of R.S.O. 1980, c. 484

REGISTRATION OF DEALERS AND DISTRIBUTORS

6.—(1) No person shall carry on the business of a dealer or distributor unless the person is registered under this Act.

Registration required

(2) An applicant for registration or renewal of registration as a dealer or distributor is entitled to registration or renewal on submitting a completed application, together with the prescribed fee.

Entitlement to registration

(3) A registration is subject to such conditions to give effect to the purposes of this Act as are prescribed by the regulations.

Conditions of registration

7. Subject to section 8, the Board may refuse to grant or renew or may suspend or revoke a registration if the applicant

Refusal to register, revocation

is in breach of a condition of the registration or a provision of this Act or the regulations, or would be if registered.

Notice of
decision to
refuse or
revoke

8.—(1) If the Board decides to refuse to grant or renew a registration or decides to suspend or revoke a registration, it shall serve notice of its decision, together with written reasons, on the applicant or registrant.

Appeal to
Divisional
Court

(2) A notice under subsection (1) shall inform the applicant or registrant that he or she may appeal from the decision to the Divisional Court in accordance with the rules of court within fifteen days from the day on which the decision was served.

Certified
copies of
papers

(3) On the request of any person desiring to appeal, the chairperson shall furnish such person with a certified copy of all proceedings, evidence, reports and papers received in evidence by the Board in dealing with and disposing of the application.

Procedure
and record

(4) An appeal under this section shall be by motion, notice of which shall be served on the chairperson, and the record shall consist of a copy, certified by the chairperson, of the proceedings of the Board, the evidence taken, and the findings and decisions of the Board in the matter.

Orders

(5) Upon the hearing of an appeal under this section, the Divisional Court may make such order as it considers proper or may refer the matter back to the Board with such directions as the court considers proper.

Costs

(6) The Divisional Court may make such orders as to the costs of the appeal as the court considers proper.

Voluntary
cancellation

(7) Despite subsection (1), the Board may cancel a registration on the request in writing of the registrant.

Continuation
of registration
pending
renewal

(8) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of the registration, a registrant has applied for renewal of the registration and paid the prescribed fee, the registration continues in force,

(a) until the renewal is granted; or

(b) where the registrant is served with notice of the Board's decision to refuse to grant the renewal, until the time for bringing an appeal has expired and until the matter is finally disposed of.

9. A further application for registration may be made upon new or other evidence or where it is clear that material circumstances have changed. Further applications

SALE AGREEMENT

- 10.—**(1) A sale agreement shall be in writing and shall, Form of agreement
- (a) subject to subsection (2), contain a description of the farm implement, including its serial and model number;
 - (b) show separately the purchase price,
 - (i) for each farm implement to which it relates, and
 - (ii) for each attachment to the farm implement if the attachment and the farm implement are not supplied by the same distributor;
 - (c) include a description of and the allowance for any trade-in;
 - (d) state the date of delivery to the purchaser;
 - (e) contain the name and address of the purchaser, dealer and distributor;
 - (f) in the case of a new farm implement, include a statement of the nature and duration of,
 - (i) the warranties provided under this Act, and
 - (ii) any additional or extended warranties;
 - (g) in the case of a used farm implement,
 - (i) include a statement of the nature and duration of all warranties given in connection with the farm implement and any exclusions from the warranties, or
 - (ii) if no warranty is given, include a statement to that effect; and
 - (h) contain such other information as may be prescribed.

Where
information
not available

(2) If the serial or model number of the farm implement is not available when the sale agreement is entered into, the dealer shall provide the information to the purchaser on or before delivery of the farm implement to the purchaser.

Warranty
separate from
sale
agreement

(3) Despite subclause (1) (f) (ii), an additional or extended warranty may be set out elsewhere than in the sale agreement if it identifies the farm implement to which it applies and is delivered to the purchaser on or before delivery of the farm implement.

Obligation of
dealer to
repair

(4) It is a condition of every sale agreement that the dealer shall, on receiving the distributor's authorization, perform any work on the farm implement or a repair part for the farm implement that is required by a warranty that the distributor is liable to honour under this Act.

Effective
date of sale
agreement

11.—(1) A sale agreement is not effective until the earlier of the date on which,

- (a) the agreement is signed by the purchaser and the dealer or the dealer's authorized agent and a copy of the agreement is delivered to the purchaser; or
- (b) the purchaser takes delivery of the farm implement under the agreement.

Copies of
sale
agreement

(2) A dealer shall keep a copy of a sale agreement for at least two years from its effective date.

WARRANTIES

Warranty as
to power

12.—(1) A sale agreement shall state,

- (a) in the case of a new tractor, its engine horsepower or power takeoff power; and
- (b) in the case of any other new farm implement that is or has an engine or motor, its engine horsepower,

as shown in the manufacturer's specifications.

Idem

(2) A farm implement is warranted to develop the power stated in the sale agreement if it is properly operated and maintained and used under reasonable operating conditions.

Implied
warranty as
to quality

13. On the sale of a new farm implement there is an implied warranty that the farm implement,

- (a) is properly constructed as to material, design and workmanship; and
- (b) will perform to manufacturer's specifications the work for which it is intended if it is properly operated and maintained and used under reasonable operating conditions.

14.—(1) The warranties provided under sections 12 (power) and 13 (quality) take effect on the date of delivery of the farm implement to the purchaser and continue for the following periods:

Duration of warranties under ss. 12 and 13

1. In the case of tractors, the lesser of one year or 1,000 hours of operation.
2. In the case of combines, the lesser of one year or 500 hours of operation.
3. In all other cases, one year.

(2) Except in the case of a *bona fide* exchange or repair of an hour meter, no person shall alter, adjust or permit any alteration or adjustment to the hour meter on a farm implement in the person's possession or control so as to cause the total number of hours indicated on the hour meter to be different from the total number of hours that the farm implement has been operated.

Alteration of hour meter prohibited

(3) A person who exchanges or repairs the hour meter on a farm implement, or another part of the farm implement that is directly related to the hour meter, shall make a record of the reading that was on the hour meter before the exchange or repair.

Exchange or repair of hour meter

15. On the sale of a new farm implement there is an implied warranty that a sufficient supply of repair parts for the farm implement will be available to the purchaser for a period of ten years from the effective date.

Implied warranty as to supply of repair parts

16.—(1) On the sale of a new repair part there is an implied warranty that the repair part will be free from defects in material or workmanship for a period of ninety days from the date of purchase or, if purchased out of the season of use, ninety days from the date it is first used by the purchaser in the next season of use.

Implied warranty as to quality of repair parts

(2) The warranty under subsection (1) applies only if the part is purchased from an authorized dealer and supplied by

Idem

the same distributor who supplied the farm implement for which the part is intended.

Additional warranties

17.—(1) A distributor or dealer may give a warranty in respect of a farm implement or a repair part that affords greater protection or that has a longer duration than the warranties under this Act.

No contracting out

(2) The warranties under this Act apply to a sale agreement despite an agreement or waiver to the contrary, and any such agreement or waiver is severable from the sale agreement.

Liability for warranties

18.—(1) The distributor of a new farm implement is liable to the purchaser to honour the warranties under sections 12 (power) and 13 (quality).

Idem

(2) The dealer and distributor of a new farm implement are jointly and severally liable to the purchaser to honour the warranty under section 15 (parts supply).

Idem

(3) The distributor who supplies a new repair part is liable to the purchaser to honour the warranty under section 16 (quality of parts).

Idem

(4) If a farm implement is damaged as a result of a breach of the warranty under section 16 (quality of parts), the distributor of the repair part is liable for the cost of repairing the farm implement.

Repairs under warranty

(5) A dealer or distributor making repairs to a farm implement under a warranty provided by this Act shall use new repair parts that are of the standard and size specified by the manufacturer for that farm implement, unless the purchaser and the distributor authorize in writing the use of different parts.

Recall of defective farm implements

(6) If a distributor is or should be aware that a significant percentage of farm implements sold by the distributor exhibit a common defect, the distributor shall notify purchasers of the defect and of the distributor's obligation to repair the defective farm implements.

Repair

(7) The distributor shall repair the defective farm implements at the distributor's expense, including any transportation costs.

REPAIR PARTS

Definition

19.—(1) In this section, "emergency repair parts" means parts required to repair a farm implement where the farm

implement breaks down during the season of use within ten years of the effective date and cannot be satisfactorily operated.

(2) Where a purchaser notifies in writing any dealer of the distributor of a farm implement that the farm implement requires emergency repair parts, the dealer shall forthwith order the emergency repair parts from the distributor. Obligation of dealer

(3) Where a distributor receives an order under subsection (2), the distributor shall ensure that the parts are available at the dealer's place of business within three working days from the day the order was placed, unless delivery of the parts cannot be made within that time because of conditions beyond the distributor's control. Obligation of distributor

(4) No price for emergency repair parts shall exceed the manufacturer's suggested list price, except that the dealer or distributor may add to the price, Price of emergency repair parts

(a) a service charge not exceeding the prescribed amount for each order for emergency repair parts; and

(b) the amount of any costs reasonably incurred in supplying the emergency repair part to the purchaser.

(5) If, on receiving notice under subsection (2), the dealer fails to properly place an order for emergency repair parts, the dealer shall be liable to supply the purchaser with a satisfactory substitute farm implement, within three working days from the day notice was given, at one-half of the prescribed normal rental rate for that implement. Provision of substitute

(6) If the dealer is unable to provide a satisfactory substitute farm implement, the dealer shall be liable to reimburse the purchaser one-half of the prescribed normal rental rate for a substitute farm implement rented from a third party. Idem

(7) If, within the time specified under subsection (3), the distributor fails to provide the emergency repair parts, the distributor shall be liable to pay one-half of the prescribed normal rental rate for a substitute farm implement rented by the purchaser from the dealer or a third party. Distributor's liability

(8) No person shall rent a farm implement to a purchaser in the circumstances mentioned in subsection (5) or (6) for more than the prescribed normal rental rate for that implement. Offence

Return of
defective
repair part

20. Where a purchaser receives a replacement part under a warranty for a defective repair part of a farm implement, the purchaser shall return the defective repair part to the dealer who supplied the replacement part within ten days after it is replaced.

FAILURE TO PERFORM

Definitions

21.—(1) For the purposes of section 22,

“defective farm implement” means a farm implement in respect of which notice has been given under section 22;

“fair market value” means fair market value as of the date the sale agreement was made.

Determi-
nation of fair
market value

(2) For the purpose of determining the fair market value of a trade-in under subsection 22 (8) or (9), regard may be had to any publication of farm implement prices in general use in the farm implement industry in Canada.

Failure to
perform

22.—(1) If, within the twelve months following its delivery to the purchaser, a new farm implement that is properly operated and maintained and used under reasonable operating conditions fails to perform to the manufacturer's specifications during its first ten days or first 100 hours of actual use, whichever occurs first, the purchaser may give notice of the farm implement's failure to perform.

Notice

(2) The notice referred to in subsection (1) shall be given in writing as soon as possible after the failure occurs, and in any event within ten days of the failure,

(a) to the selling dealer; or

(b) if the selling dealer is no longer in business, to the Board,

and the dealer or the Board shall notify the distributor forthwith of the notice and its contents.

Repair

(3) The dealer or distributor shall endeavour to make the defective farm implement perform to the manufacturer's specifications within four working days after the dealer or distributor receives notice of the failure, or as soon as possible thereafter when reasonable operating conditions exist for the farm implement.

Substitute

(4) If the dealer or distributor fails to make the defective farm implement perform to the manufacturer's specifications,

the dealer or distributor shall forthwith provide the purchaser with a satisfactory substitute for the purchaser's use until the defective farm implement is made to perform to the manufacturer's specifications or is replaced or until the sale agreement is terminated under clause (5) (b).

(5) If, within fourteen working days after providing the substitute farm implement to the purchaser, the dealer or distributor fails to make the defective farm implement perform to the manufacturer's specifications,

Replacement
or
termination

- (a) the distributor shall replace the defective farm implement with a farm implement that is satisfactory to the purchaser; or
- (b) the dealer shall terminate the sale agreement in so far as it relates to the defective farm implement.

(6) Subject to subsections (7), (8) and (9), when a sale agreement is terminated under clause (5) (b),

Refund and
return of
trade-in

- (a) the distributor shall refund to the purchaser through the dealer the amount remitted to the distributor for the defective farm implement; and
- (b) the dealer shall refund to the purchaser the balance of the amount paid for the defective farm implement and shall return any trade-in made in connection with the sale.

(7) The dealer or distributor may deduct from the amount owing to the purchaser,

Deduction
for repairs
to trade-in

- (a) the reasonable costs of repairing or reconditioning the trade-in that were incurred before the termination of the sale agreement; and
- (b) a reasonable amount of compensation for the actual use of the farm implement by the purchaser.

(8) If the dealer does not return the trade-in, the dealer shall pay to the purchaser an amount equal to the fair market value of the trade-in.

Where
trade-in
not returned

(9) If the defective farm implement was purchased under a sale agreement that relates to more than one farm implement and includes a trade-in arrangement, the dealer or distributor may, unless the purchaser agrees otherwise,

Sale
agreement
for more
than one
farm
implement

- (a) keep the trade-in and pay to the purchaser an amount of money that bears the same proportion to the fair market value of the trade-in as the purchase price of the defective farm implement bears to the total purchase price of all the farm implements purchased under the agreement; or
- (b) return the trade-in and refund to the purchaser the part of the total purchase price that was paid in respect of the defective farm implement.

Obligations
re financing
agreement

(10) If the purchase of the defective farm implement is financed in whole or in part through a financing agreement with a third party and the sale agreement relating to it is terminated under clause (5) (b), the distributor shall be liable,

- (a) to satisfy the payment obligations under the financing agreement that relate to the defective farm implement, including any penalty for accelerated payment; and
- (b) to discharge any registrations against the farm implement or against the purchaser in connection with that farm implement under the *Bank Act* (Canada), the *Personal Property Security Act* and the *Corporation Securities Registration Act*.

1980-81,
c. 40 (Can.)
R.S.O. 1980,
cc. 375, 94

BUY-BACK PROVISIONS

Definitions

23.—(1) For the purposes of sections 24 to 30,

“agreement” means an agreement between a dealer and a distributor under which the dealer is required by the distributor to maintain an inventory of new farm implements and parts supplied by the distributor;

“current net price” means the price listed in the distributor’s price list or catalogue in effect at the time the agreement is terminated;

“invoice price” means the price actually paid by the dealer for the new farm implement and, in respect of a new farm implement that has been rented pursuant to a written rental program approved by the distributor, means the price actually paid by the dealer for the new farm implement less the amount of any rental payments submitted to the distributor;

“new farm implement” means a farm implement that is not a used farm implement and includes,

- (a) a farm implement that has been operated by or on behalf of a dealer pursuant to a written demonstration program sponsored by the distributor, and
- (b) a farm implement that has been rented pursuant to a written rental program approved by the distributor;

“new part” means a part or parts assembly that has not been used and has not been removed from a complete farm implement;

“used farm implement” means a farm implement that has been operated for a distance or for a period of time in excess of that required to deliver it to the dealer and to enable the dealer to service, prepare and operate it for the purposes of sale.

(2) Sections 24 to 30 apply to an agreement that is in effect on or after the day this Act comes into force. Application

(3) Subject to subsection (4), sections 24 to 30 apply to an agreement despite any agreement or waiver to the contrary. No contracting out

(4) A distributor and a dealer may agree in writing to repurchase terms that are more favourable to the dealer than the provisions of sections 24 to 30. Exception

24.—(1) Within ninety days after an agreement has expired or is terminated, a dealer may by written notice require the distributor to repurchase all or any new farm implements and new parts supplied by the distributor under the agreement. Notice to repurchase

(2) The notice to repurchase shall state whether the dealer intends to rely on, Election

(a) the provisions of this section and sections 25 to 30;
or

(b) the terms of an agreement with the distributor under subsection 23 (4).

(3) If the dealer fails to make the election under subsection (2), the dealer shall be deemed to have elected to rely on the provisions of this section and sections 25 to 30. Where no election made

25.—(1) The distributor shall pay a repurchase amount to the dealer equal to, Repurchase price

(a) 100 per cent of the invoice price for each new farm implement; and

(b) 85 per cent of the current net price for each new part,

plus transportation costs paid by the dealer for delivery of the new farm implement to the dealer's place of business.

Other
amounts
owing

(2) In addition to the amount payable under subsection (1), the distributor shall pay any other amount owing to the dealer by the distributor.

Time for
payment

26.—(1) The repurchase amount payable to the dealer by the distributor is due on the earlier of,

(a) the ninety-first day after the distributor receives the notice of repurchase; and

(b) the thirtieth day after the distributor takes possession of the new farm implements and parts that are the subject of the notice.

Interest

(2) Interest at the prescribed rate shall be payable on any part of the repurchase amount that is unpaid after the due date.

Extension of
time

(3) The dealer and distributor may agree to extend the time for payment.

Set-off

(4) A distributor may deduct from the repurchase amount any amount owing to the distributor by the dealer.

Deduction
for missing
part, etc.

(5) A distributor may deduct from the repurchase amount the current net price, including a reasonable installation charge, for the replacement of any part of a new farm implement that is missing or damaged.

Repurchase
not required

27. A distributor is not required to repurchase,

(a) a new part that is broken or damaged;

(b) a new parts assembly that is incomplete and cannot be completed at reasonable expense;

(c) a new part or parts assembly that has been removed from a farm implement and replaced at no cost to the dealer under a modification or warranty substitution program;

- (d) a new part that is a seal or hose made of rubber, a gasket made of cork or a composition of materials, a seal made of leather, a liquid chemical that has deteriorated and is of limited use, or paint;
- (e) a new part that is not clearly identified, or that is not resaleable as a new part without repackaging or reconditioning;
- (f) a new part that is not listed in the distributor's current parts record-keeping system;
- (g) a new farm implement that is an attachment that,
 - (i) is not identifiable by a whole goods' invoice,
 - (ii) is not resaleable as a new attachment without repackaging or reconditioning, or
 - (iii) does not fit a current new farm implement;
- (h) a new farm implement or new part that has not been adequately prepared for shipment by the dealer within the ninety day period or extension of that period referred to in subsection 28 (2);
- (i) a new farm implement that was shipped to the dealer more than thirty-six months before the distributor receives the notice of repurchase.

28.—(1) The dealer is responsible for the care of a new farm implement or new part until the earlier of, Responsibility for care

- (a) the ninety-first day after the distributor receives the notice to repurchase; and
- (b) the day the distributor takes possession of the new farm implements and new parts,

and thereafter the distributor is responsible.

(2) Despite clause (1) (a), the dealer and distributor may agree to extend the time during which the dealer is responsible. Extension of time

(3) The dealer is responsible for preparing or packaging all new farm implements and all new parts so that they are acceptable by a carrier for shipment at the distributor's expense from the dealer's place of business. Preparing implements and parts for shipment

R.S.O. 1980,
c. 52 does
not apply

29. The *Bulk Sales Act* does not apply to a sale to a distributor under section 24.

Distributor
to furnish
information

30. A distributor shall provide to the Board, on request, copies of agreements in effect between the distributor and the dealer respecting the supply or return of new farm implements or new parts.

MISCELLANEOUS PROVISIONS

Alteration of
serial number

31.—(1) No person shall,

- (a) alter or remove the serial number on a farm implement; or
- (b) buy, sell or otherwise deal in a farm implement if the serial number has been altered or removed, unless authorized to do so by the Board.

Obligation of
dealer

(2) Subject to subsection 10 (2), no dealer shall sell or offer for sale a new farm implement unless the serial number is stamped on the implement or affixed thereto.

Idem

(3) No dealer shall sell or offer for sale a farm implement,

- (a) unless the farm implement complies with the prescribed safety standards; and
- (b) unless the dealer provides the purchaser with a statement that indicates compliance with the prescribed safety standards.

Service of
notice

32.—(1) A notice required to be given to a dealer or distributor may be served personally or sent by registered mail to the address of the dealer or distributor as shown in the records of the Board.

Deemed
receipt

(2) A notice that is sent by registered mail shall be deemed to have been received on the fifth day after it is mailed.

Rights, etc.,
preserved

33. The rights, duties and remedies provided by this Act are in addition to the rights, duties and remedies under any other Act and the common law.

Offence and
penalty

34.—(1) Every person and every officer or director of a corporation who contravenes a provision of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

(2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed on the corporation is \$25,000. Corporations

35. Subject to the approval of the Lieutenant Governor in Council, the Board may make regulations, Regulations

- (a) exempting a farm implement or a class of farm implements from any provision of this Act or the regulations;
- (b) prescribing, for the purposes of section 2, the amount that the manufacturer's suggested list price of a farm implement must equal or exceed;
- (c) prescribing information to be included in agreements referred to in subsection 3 (4);
- (d) prescribing forms and providing for their use;
- (e) prescribing the composition of the Board;
- (f) governing applications for registration or renewal of registration and prescribing conditions of registration;
- (g) requiring the payment of fees of an application for registration or renewal of registration and prescribing the amount of the fees;
- (h) prescribing information to be included in sale agreements;
- (i) requiring dealers and distributors to provide to the Board prescribed information respecting their business operations and prescribing the times at which the information is to be provided and the form in which it is to be provided;
- (j) regulating the provision of emergency parts for farm implements, including imposing duties on distributors and dealers;
- (k) prescribing normal rental rates for the purposes of section 19;
- (l) prescribing, for the purposes of subsection 19 (4), the maximum amount of the service charge payable in respect of an order for emergency repair parts;

- (m) fixing the rate of interest for the purposes of subsection 26 (2);
- (n) regulating or prohibiting the installation or use of any farm implement, part or device or any class thereof;
- (o) requiring that any farm implement or part bear the seal of approval of an organization designated by the regulations to test and approve the farm implement or part, and designating organizations for such purposes;
- (p) prescribing safety standards for farm implement performance;
- (q) prescribing standards for dealers respecting safety information and instruction to be given to purchasers on the sale of a farm implement;
- (r) adopting by reference, in whole or in part, with such changes as the Board considers necessary, any code or standard and requiring compliance with any code or standard that is so adopted.

Commence-
ment

36. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

37. The short title of this Act is the *Farm Implements Act*, 1988.

Bill 79

An Act to amend the Legislative Assembly Act

The Hon. S. Conway

Government House Leader and Minister of Mines



1st Reading December 16th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to increase indemnities and allowances by 4.4 per cent.



Bill 79

1987

An Act to amend the Legislative Assembly Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 60 (1) and (2) of the *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1986, chapter 72, section 1, are repealed and the following substituted therefor:

(1) An indemnity at the rate of \$39,229 per annum shall be paid to every member of the Assembly. Members' indemnities

(2) An allowance for expenses at the rate of \$13,171 shall be paid to every member of the Assembly. Members' allowances,

2. Section 61 of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 72, section 2, is repealed and the following substituted therefor:

61. In addition to the indemnity and allowance for expenses as a member, there shall be paid a Leader's allowance for expenses, Leaders' allowances

- (a) to the Premier, at the rate of \$7,410 per annum;
- (b) to the Leader of the Opposition, at the rate of \$4,941 per annum; and
- (c) to the leader of a party, except the Premier and the Leader of the Opposition, that has a recognized membership of twelve or more persons in the Assembly, at the rate of \$2,470 per annum.

3. Subsection 62 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 72, section 3, is repealed and the following substituted therefor:

Indemnity
of Speaker,
Leader of
Opposition
and leader of
a minority
party

(1) In addition to the indemnity as a member, there shall be paid,

- (a) to the Speaker an indemnity at the rate of \$21,217 per annum;
- (b) to the Leader of the Opposition an indemnity at the rate of \$28,743 per annum; and
- (c) to the leader of a party, except the Premier and the Leader of the Opposition, that has a recognized membership of twelve or more persons in the Assembly, an indemnity at the rate of \$14,432.

4. Subsection 64 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 72, section 4, is repealed and the following substituted therefor:

Chairman
and Deputy
Chairman of
Whole House
and chairmen
of standing
committees,
indemnity

(1) In addition to the indemnity as a member, an indemnity shall be paid,

- (a) to the Deputy Speaker and Chairman of the Committees of the Whole House at the rate of \$8,880 per annum;
- (b) to the Deputy Chairman of the Committees of the Whole House at the rate of \$6,168 per annum; and
- (c) to the chairman of each standing committee at the rate of \$4,810 per annum.

5. Subsection 65 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 72, section 5, is repealed and the following substituted therefor:

Whips,
indemnities

(1) In addition to the indemnity as a member, an indemnity shall be paid,

- (a) to the Chief Government Whip, at the rate of \$10,979 per annum;
- (b) to the Deputy Government Whip, at the rate of \$7,524 per annum;
- (c) to each of not more than three Government Whips, at the rate of \$5,427 per annum;
- (d) to the Chief Opposition Whip, at the rate of \$7,524 per annum;

- (e) to each of not more than two Opposition Whips, at the rate of \$5,427 per annum; and
- (f) in the case of each party that has a recognized membership of twelve or more persons in the Assembly, other than the party from which the Government is chosen and the party recognized as the Official Opposition,
 - (i) to the Chief Party Whip of the party, at the rate of \$6,168 per annum, and
 - (ii) to the Party Whip of the party, at the rate of \$4,934 per annum.

6. Subsection 67 (1) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 72, section 6, is further amended by striking out “\$68” as set out in the amendment of 1986 and inserting in lieu thereof “\$71” and by striking out “\$79” as set out in that amendment and inserting in lieu thereof “\$82”.

7. Section 69 of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 72, section 7, is repealed and the following substituted therefor:

69. In addition to the indemnity as a member, an indemnity shall be paid, House
Leaders’
indemnities

- (a) to the Opposition House Leader, at the rate of \$10,979 per annum;
- (b) to the House Leader of a party, other than the party from which the Government is chosen and the party recognized as the Official Opposition, that has a recognized membership of twelve or more persons in the Assembly, at the rate of \$8,264 per annum.

8. This Act shall be deemed to have come into force on the 1st day of April, 1987. Commence-
ment

9. The short title of this Act is the *Legislative Assembly Amendment Act, 1987*. Short title

Bill 79

(Chapter 14
Statutes of Ontario, 1988)

An Act to amend the Legislative Assembly Act

The Hon. S. Conway
Government House Leader and Minister of Mines



<i>1st Reading</i>	December 16th, 1987
<i>2nd Reading</i>	January 7th, 1988
<i>3rd Reading</i>	January 7th, 1988
<i>Royal Assent</i>	January 7th, 1988

Bill 79**1987****An Act to amend the Legislative Assembly Act**

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(2) An allowance for expenses at the rate of \$13,171 shall be paid to every member of the Assembly. Members' allowances,

2. Section 61 of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 72, section 2, is repealed and the following substituted therefor:

61. In addition to the indemnity and allowance for expenses as a member, there shall be paid a Leader's allowance for expenses, Leaders' allowances

- (a) to the Premier, at the rate of \$7,410 per annum;
- (b) to the Leader of the Opposition, at the rate of \$4,941 per annum; and
- (c) to the leader of a party, except the Premier and the Leader of the Opposition, that has a recognized membership of twelve or more persons in the Assembly, at the rate of \$2,470 per annum.

3. Subsection 62 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 72, section 3, is repealed and the following substituted therefor:

Indemnity
of Speaker,
Leader of
Opposition
and leader of
a minority
party

(1) In addition to the indemnity as a member, there shall be paid,

- (a) to the Speaker an indemnity at the rate of \$21,217 per annum;
- (b) to the Leader of the Opposition an indemnity at the rate of \$28,743 per annum; and
- (c) to the leader of a party, except the Premier and the Leader of the Opposition, that has a recognized membership of twelve or more persons in the Assembly, an indemnity at the rate of \$14,432.

4. Subsection 64 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 72, section 4, is repealed and the following substituted therefor:

Chairman
and Deputy
Chairman of
Whole House
and chairmen
of standing
committees,
indemnity

(1) In addition to the indemnity as a member, an indemnity shall be paid,

- (a) to the Deputy Speaker and Chairman of the Committees of the Whole House at the rate of \$8,880 per annum;
- (b) to the Deputy Chairman of the Committees of the Whole House at the rate of \$6,168 per annum; and
- (c) to the chairman of each standing committee at the rate of \$4,810 per annum.

5. Subsection 65 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 72, section 5, is repealed and the following substituted therefor:

Whips,
indemnities

(1) In addition to the indemnity as a member, an indemnity shall be paid,

- (a) to the Chief Government Whip, at the rate of \$10,979 per annum;
- (b) to the Deputy Government Whip, at the rate of \$7,524 per annum;
- (c) to each of not more than three Government Whips, at the rate of \$5,427 per annum;
- (d) to the Chief Opposition Whip, at the rate of \$7,524 per annum;

- (e) to each of not more than two Opposition Whips, at the rate of \$5,427 per annum; and
- (f) in the case of each party that has a recognized membership of twelve or more persons in the Assembly, other than the party from which the Government is chosen and the party recognized as the Official Opposition,
 - (i) to the Chief Party Whip of the party, at the rate of \$6,168 per annum, and
 - (ii) to the Party Whip of the party, at the rate of \$4,934 per annum.

6. Subsection 67 (1) of the said Act, as amended by the Statutes of Ontario, 1986, chapter 72, section 6, is further amended by striking out “\$68” as set out in the amendment of 1986 and inserting in lieu thereof “\$71” and by striking out “\$79” as set out in that amendment and inserting in lieu thereof “\$82”.

7. Section 69 of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 72, section 7, is repealed and the following substituted therefor:

69. In addition to the indemnity as a member, an indemnity shall be paid,

House
Leaders’
indemnities

- (a) to the Opposition House Leader, at the rate of \$10,979 per annum;
- (b) to the House Leader of a party, other than the party from which the Government is chosen and the party recognized as the Official Opposition, that has a recognized membership of twelve or more persons in the Assembly, at the rate of \$8,264 per annum.

8. This Act shall be deemed to have come into force on the 1st day of April, 1987.

Commence-
ment

9. The short title of this Act is the *Legislative Assembly Amendment Act, 1988*.

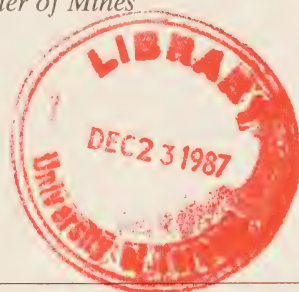
Short title

Bill 80

An Act to amend the Executive Council Act

The Hon. S. Conway

Government House Leader and Minister of Mines



1st Reading December 16th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to increase salaries by 4.4 per cent.

Bill 80

1987

An Act to amend the Executive Council Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 3 (1), (2), (3) and (4) of the *Executive Council Act*, being chapter 147 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1986, chapter 73, section 1, are repealed and the following substituted therefor:

(1) The annual salary of every minister with portfolio is \$28,743. Salaries

(2) The Premier and President of the Council shall receive, in addition, \$12,214 per annum. Additional salary for Premier

(3) The annual salary of every minister without portfolio is \$14,433. Salary of minister without portfolio

(4) The annual salary of every Parliamentary Assistant is \$8,880. Salary of Parliamentary Assistant

2. This Act shall be deemed to have come into force on the 1st day of April, 1987. Commence-ment

3. The short title of this Act is the *Executive Council Amendment Act, 1987*. Short title

Bill 80

*(Chapter 15
Statutes of Ontario, 1988)*

An Act to amend the Executive Council Act

The Hon. S. Conway

Government House Leader and Minister of Mines



<i>1st Reading</i>	December 16th, 1987
<i>2nd Reading</i>	January 7th, 1988
<i>3rd Reading</i>	January 7th, 1988
<i>Royal Assent</i>	January 7th, 1988

Bill 80

1987

An Act to amend the Executive Council Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 3 (1), (2), (3) and (4) of the *Executive Council Act*, being chapter 147 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1986, chapter 73, section 1, are repealed and the following substituted therefor:

- | | |
|----------------------------------------------------------------------------------------------|--------------------------------------|
| (1) The annual salary of every minister with portfolio is \$28,743. | Salaries |
| (2) The Premier and President of the Council shall receive, in addition, \$12,214 per annum. | Additional salary for Premier |
| (3) The annual salary of every minister without portfolio is \$14,433. | Salary of minister without portfolio |
| (4) The annual salary of every Parliamentary Assistant is \$8,880. | Salary of Parliamentary Assistant |
| 2. This Act shall be deemed to have come into force on the 1st day of April, 1987. | Commence-
ment |
| 3. The short title of this Act is the <i>Executive Council Amendment Act, 1988</i> . | Short title |

Bill 81

An Act to amend the Election Finances Act

The Hon. S. Conway

Government House Leader and Minister of Mines



1st Reading December 16th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

As set out in section 5 of the Bill, it is proposed that section 45 of the *Election Finances Act, 1986* be repealed. Section 45 relates to the filing of financial information whenever the chief financial officer of a political party resigns.

Sections 1, 2, 3, 4 and 6 of the bill are complementary to the repeal of section 45.

Bill 81**1987****An Act to amend the Election Finances Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 12 of the *Election Finances Act, 1986*, being chapter 33, is repealed.

2.—(1) Subsection 13 (2) of the said Act is amended by striking out “34 (3) or 45 (3)” wherever it appears and by inserting in lieu thereof, in each instance, “or 34 (3)”.

(2) Subsection 13 (6) of the said Act is amended by striking out “or subsection 45 (3)” in the second and third lines and in the fourth and fifth lines.

3. Clause 34 (4) (d) of the said Act is amended by striking out “43 and 45” in the second line and inserting in lieu thereof “and 43”.

4.—(1) Subsection 41 (4) of the said Act is amended by striking out “43 and 45” in the fifth line and inserting in lieu thereof “and 43”.

(2) Clause 41 (7) (a) of the said Act is amended by striking out “43 and 45” in the third line and inserting in lieu thereof “and 43”.

(3) Clauses 41 (7) (b) and (c) of the said Act are amended by striking out “sections 43 and 45” wherever it appears and inserting in lieu thereof, in each instance, “section 43”.

5. Section 45 of the said Act is repealed.

6. Subsection 48 (1) of the said Act is amended by striking out “43 or 45” in the third line and inserting in lieu thereof “or 43”.

Commence-
ment

7. This Act comes into force on the 1st day of January, 1988.

Short title

8. The short title of this Act is the *Election Finances Amendment Act, 1987*.

Bill 81

(Chapter 16
Statutes of Ontario, 1988)

An Act to amend the Election Finances Act, 1986

The Hon. S. Conway
Government House Leader and Minister of Mines

<i>1st Reading</i>	December 16th, 1987
<i>2nd Reading</i>	January 7th, 1988
<i>3rd Reading</i>	January 7th, 1988
<i>Royal Assent</i>	January 7th, 1988



Bill 81**1987****An Act to amend the Election Finances Act, 1986**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 12 of the *Election Finances Act, 1986*, being chapter 33, is repealed.

2.—(1) Subsection 13 (2) of the said Act is amended by striking out “34 (3) or 45 (3)” wherever it appears and by inserting in lieu thereof, in each instance, “or 34 (3)”.

(2) Subsection 13 (6) of the said Act is amended by striking out “or subsection 45 (3)” in the second and third lines and in the fourth and fifth lines.

3. Clause 34 (4) (d) of the said Act is amended by striking out “43 and 45” in the second line and inserting in lieu thereof “and 43”.

4.—(1) Subsection 41 (4) of the said Act is amended by striking out “43 and 45” in the fifth line and inserting in lieu thereof “and 43”.

(2) Clause 41 (7) (a) of the said Act is amended by striking out “43 and 45” in the third line and inserting in lieu thereof “and 43”.

(3) Clauses 41 (7) (b) and (c) of the said Act are amended by striking out “sections 43 and 45” wherever it appears and inserting in lieu thereof, in each instance, “section 43”.

5. Section 45 of the said Act is repealed.

6. Subsection 48 (1) of the said Act is amended by striking out “43 or 45” in the third line and inserting in lieu thereof “or 43”.

Commence-
ment

7. This Act shall be deemed to have come into force on the 1st day of January, 1988.

Short title

8. The short title of this Act is the *Election Finances Amendment Act, 1988*.

Bill 82

An Act respecting Energy Efficiency

The Hon. R. Wong
Minister of Energy



<i>1st Reading</i>	December 16th, 1987
<i>2nd Reading</i>	
<i>3rd Reading</i>	
<i>Royal Assent</i>	

EXPLANATORY NOTE

The purpose of the Bill is to encourage energy efficiency by setting energy efficiency standards for appliances and products.

Bill 82**1987****An Act respecting Energy Efficiency**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“Deputy Minister” means the Deputy Minister of Energy;

“prescribed” means prescribed by the regulations;

“regulations” means regulations made under this Act.

2. This Act applies to the following appliances and products: Application

1. Central air conditioners
2. Clothes dryers
3. Clothes washers
4. Dishwashers
5. Freezers
6. Furnaces
7. Heat pumps
8. Ovens
9. Ranges
10. Refrigerators
11. Room air conditioners
12. Pool heaters
13. Water heaters
14. Prescribed appliances and products.

3.—(1) No person shall offer for sale, sell or lease an appliance or product to which this Act applies unless, Appliances and products, efficiency standards

- (a) the appliance or product meets the prescribed efficiency standard with respect to the appliance or product; and

- (b) a prescribed label that sets out the efficiency standard of the appliance or product is affixed to the appliance or product.

Labels

(2) No person shall affix a prescribed label to an appliance or product to which this Act applies unless the appliance or product meets the prescribed efficiency standard with respect to the appliance or product.

Application
of subs. (1)

(3) Subsection (1) does not apply to,

- (a) an appliance or product that is manufactured on or before a prescribed date and that is sold or leased on or before a prescribed date; or
- (b) a person who is not in the business of offering for sale, selling or leasing appliances or products to which this Act applies.

Inspectors

4.—(1) The Deputy Minister may designate in writing any person as an inspector for the purposes of this Act.

Powers

(2) For the purposes of this Act and the regulations, an inspector designated under subsection (1),

- (a) may enter any place where an appliance or product to which this Act applies is manufactured, offered for sale, sold or leased at any reasonable time;
- (b) may request the production for inspection of documents or things that may be relevant to the carrying out of an inspection or test on an appliance or product to which this Act applies;
- (c) upon giving a receipt therefor, may remove from a place documents or things produced pursuant to a request under clause (b) for the purpose of making copies or extracts and shall promptly return them to the person who produced them;
- (d) may inspect and test any appliance or product to which this Act applies to ensure that the appliance or product complies with the provisions of this Act and the regulations; and
- (e) may require any person to co-operate in and assist with an inspection or test.

Entry of
dwelling

(3) A person shall not exercise a power of entry conferred by this Act to enter the dwelling of a person who is not in the

business of manufacturing, offering for sale, selling or leasing appliances or products to which this Act applies.

(4) A person shall not exercise a power of entry conferred by this Act to enter a place that is being used as a dwelling without the consent of the occupier except under the authority of a warrant issued under this section. Idem

(5) Where a justice of the peace is satisfied on evidence upon oath that there are in a place documents or things that there is reasonable ground to believe will afford evidence relevant to the carrying out of an inspection or test under this Act, the justice of the peace may issue a warrant in the prescribed form authorizing the person named in the warrant to search the place for any such documents or things and to remove them for the purposes of making copies or extracts and they shall be returned promptly to the place from which they were removed. Warrant for search

(6) Where a justice of the peace is satisfied on evidence upon oath that there is reasonable ground to believe it is necessary that a place being used as a dwelling or to which entry has been denied be entered so that an inspector may carry out an inspection or test under this Act, the justice of the peace may issue a warrant in the prescribed form authorizing such entry by the person named in the warrant. Warrant for entry

(7) A warrant issued under this section, Execution and expiry of warrant

(a) shall specify the hours and days during which it may be executed; and

(b) shall name a date on which it expires, which date shall not be later than fifteen days after its issue.

(8) No person shall hinder, obstruct or interfere with or impede an inspector, Obstruction

(a) who is exercising a power under subsection (2); or

(b) who is executing a warrant.

(9) Subsection (8) is not contravened where a person refuses to produce documents or things, unless a warrant has been issued under subsection (5). Idem

(10) Where information is required to be furnished or a document is required to be provided or produced under this Act or the regulations, no person furnishing such information False information, etc.

or providing or producing such document shall furnish false information or provide or produce a false document.

Admissibility
of copies

(11) Copies of, or extracts from, documents and things removed from premises under this Act and certified by the person who made the copies as being true copies of, or extracts from, the originals are admissible in evidence to the same extent as, and have the same evidentiary value as, the documents or things of which they are copies or extracts.

Idem

(12) No document or thing or copy thereof or extract therefrom in the possession of an inspector shall be introduced in evidence in any proceeding under this Act unless the owner of the document or thing is first given notice of the intent to introduce it into evidence.

Penalty

5.—(1) Every person who contravenes any provision of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or, if the person is a body corporate, to a fine of not more than \$25,000.

Idem

(2) Where a body corporate contravenes any provision of this Act or the regulations, every director or officer of the body corporate who authorizes, permits or acquiesces in the contravention is a party to and guilty of an offence and on conviction is liable to the penalty provided for the offence whether or not the body corporate has been prosecuted or convicted.

Regulations

6.—(1) The Lieutenant Governor in Council may make regulations,

- (a) prescribing appliances and products to which this Act applies in addition to those appliances and products set out in section 2;
- (b) respecting any matter referred to as prescribed by the regulations;
- (c) regulating the installation, testing, maintenance and repair of appliances and products to which this Act applies;
- (d) designating persons or organizations to test appliances and products to which this Act applies to the prescribed standards;

- (e) providing for the placing of a prescribed label on appliances and products that conform to the prescribed standards;
- (f) prescribing the contents of labels that may be placed on appliances and products to which this Act applies;
- (g) prescribing fees to be paid to designated persons or organizations for the testing or labeling of appliances and products and prescribing by whom the fees shall be paid;
- (h) prescribing forms and providing for their use;
- (i) providing for information to be reported by persons who manufacture, offer for sale, sell or lease appliances or products to which this Act applies including the frequency, time and manner for reporting;
- (j) governing the keeping of information, records and documents by persons who manufacture, offer for sale, sell or lease appliances or products to which this Act applies;
- (k) exempting any person, appliance or product from any provision of this Act or the regulations.

(2) A regulation may be general or specific in its application. Idem

(3) A regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code or standard and may require compliance with any code or standard adopted. Codes

7. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

8. The short title of this Act is the *Energy Efficiency Act*, Short title
1987.

Bill 82

(Chapter 32
Statutes of Ontario, 1988)

An Act respecting Energy Efficiency

The Hon. R. Wong
Minister of Energy

<i>1st Reading</i>	December 16th, 1987
<i>2nd Reading</i>	June 1st, 1988
<i>3rd Reading</i>	June 8th, 1988
<i>Royal Assent</i>	June 8th, 1988

Bill 82

1987

An Act respecting Energy Efficiency

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“Deputy Minister” means the Deputy Minister of Energy;

“prescribed” means prescribed by the regulations;

“regulations” means regulations made under this Act.

2. This Act applies to the following appliances and Application products:

1. Central air conditioners.
2. Clothes dryers.
3. Clothes washers.
4. Dishwashers.
5. Freezers.
6. Furnaces.
7. Heat pumps.
8. Ovens.
9. Ranges.
10. Refrigerators.
11. Room air conditioners.
12. Pool heaters.
13. Water heaters.
14. Prescribed appliances and products.

3.—(1) No person shall offer for sale, sell or lease an appliance or product to which this Act applies unless, Appliances and products, efficiency standards

- (a) the appliance or product meets the prescribed efficiency standard with respect to the appliance or product; and

- (b) a prescribed label that sets out the efficiency standard of the appliance or product is affixed to the appliance or product.

Labels

(2) No person shall affix a prescribed label to an appliance or product to which this Act applies unless the appliance or product meets the prescribed efficiency standard with respect to the appliance or product.

Application of subs. (1)

(3) Subsection (1) does not apply to,

- (a) an appliance or product that is manufactured on or before a prescribed date and that is sold or leased on or before a prescribed date; or
- (b) a person who is not in the business of offering for sale, selling or leasing appliances or products to which this Act applies.

Inspectors

4.—(1) The Deputy Minister may designate in writing any person as an inspector for the purposes of this Act.

Powers

(2) For the purposes of this Act and the regulations, an inspector designated under subsection (1),

- (a) may enter any place where an appliance or product to which this Act applies is manufactured, offered for sale, sold or leased at any reasonable time;
- (b) may request the production for inspection of documents or things that may be relevant to the carrying out of an inspection or test on an appliance or product to which this Act applies;
- (c) upon giving a receipt therefor, may remove from a place documents or things produced pursuant to a request under clause (b) for the purpose of making copies or extracts and shall promptly return them to the person who produced them;
- (d) may inspect and test any appliance or product to which this Act applies to ensure that the appliance or product complies with the provisions of this Act and the regulations; and
- (e) may require any person to co-operate in and assist with an inspection or test.

Entry of dwelling

(3) A person shall not exercise a power of entry conferred by this Act to enter the dwelling of a person who is not in the

business of manufacturing, offering for sale, selling or leasing appliances or products to which this Act applies.

(4) A person shall not exercise a power of entry conferred by this Act to enter a place that is being used as a dwelling without the consent of the occupier except under the authority of a warrant issued under this section. Idem

(5) Where a justice of the peace is satisfied on evidence upon oath that there are in a place documents or things that there is reasonable ground to believe will afford evidence relevant to the carrying out of an inspection or test under this Act, the justice of the peace may issue a warrant in the prescribed form authorizing the person named in the warrant to search the place for any such documents or things and to remove them for the purposes of making copies or extracts and they shall be returned promptly to the place from which they were removed. Warrant for search

(6) Where a justice of the peace is satisfied on evidence upon oath that there is reasonable ground to believe it is necessary that a place being used as a dwelling or to which entry has been denied be entered so that an inspector may carry out an inspection or test under this Act, the justice of the peace may issue a warrant in the prescribed form authorizing such entry by the person named in the warrant. Warrant for entry

(7) A warrant issued under this section, Execution and expiry of warrant

- (a) shall specify the hours and days during which it may be executed; and
- (b) shall name a date on which it expires, which date shall not be later than fifteen days after its issue.

(8) No person shall hinder, obstruct or interfere with or impede an inspector, Obstruction

- (a) who is exercising a power under subsection (2); or
- (b) who is executing a warrant.

(9) Subsection (8) is not contravened where a person refuses to produce documents or things, unless a warrant has been issued under subsection (5). Idem

(10) Where information is required to be furnished or a document is required to be provided or produced under this Act or the regulations, no person furnishing such information False information, etc.

or providing or producing such document shall furnish false information or provide or produce a false document.

Admissibility
of copies

(11) Copies of, or extracts from, documents and things removed from premises under this Act and certified by the person who made the copies as being true copies of, or extracts from, the originals are admissible in evidence to the same extent as, and have the same evidentiary value as, the documents or things of which they are copies or extracts.

Idem

(12) No document or thing or copy thereof or extract therefrom in the possession of an inspector shall be introduced in evidence in any proceeding under this Act unless the owner of the document or thing is first given notice of the intent to introduce it into evidence.

Penalty

5.—(1) Every person who contravenes any provision of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or, if the person is a body corporate, to a fine of not more than \$25,000.

Idem

(2) Where a body corporate contravenes any provision of this Act or the regulations, every director or officer of the body corporate who authorizes, permits or acquiesces in the contravention is a party to and guilty of an offence and on conviction is liable to the penalty provided for the offence whether or not the body corporate has been prosecuted or convicted.

Regulations

6.—(1) The Lieutenant Governor in Council may make regulations,

- (a) prescribing appliances and products to which this Act applies in addition to those appliances and products set out in section 2;
- (b) respecting any matter referred to as prescribed by the regulations;
- (c) regulating the installation, testing, maintenance and repair of appliances and products to which this Act applies;
- (d) designating persons or organizations to test appliances and products to which this Act applies to the prescribed standards;

- (e) providing for the placing of a prescribed label on appliances and products that conform to the prescribed standards;
- (f) prescribing the contents of labels that may be placed on appliances and products to which this Act applies;
- (g) prescribing fees to be paid to designated persons or organizations for the testing or labeling of appliances and products and prescribing by whom the fees shall be paid;
- (h) prescribing forms and providing for their use;
- (i) providing for information to be reported by persons who manufacture, offer for sale, sell or lease appliances or products to which this Act applies including the frequency, time and manner for reporting;
- (j) governing the keeping of information, records and documents by persons who manufacture, offer for sale, sell or lease appliances or products to which this Act applies;
- (k) exempting any person, appliance or product from any provision of this Act or the regulations.

(2) A regulation may be general or specific in its application. Idem

(3) A regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code or standard and may require compliance with any code or standard adopted. Codes

7. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

8. The short title of this Act is the *Energy Efficiency Act*, Short title
1988.

Bill 83

An Act respecting the Protection of Farm Practices

The Hon. J. Riddell

Minister of Agriculture and Food



1st Reading December 17th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The purpose of the Bill is to protect persons engaged in agricultural operations from claims for nuisance in respect of odour, noise or dust resulting from those operations if they are normal farm practices. (Section 2)

A Farm Practices Protection Board is established to resolve any disputes as to what constitutes a normal farm practice. (Sections 3, 4 and 5)

Bill 83**1987****An Act respecting the Protection of Farm Practices**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“agricultural operation” means an agricultural, aquacultural, horticultural or silvacultural operation that is carried on in the expectation of gain or reward, and includes,

- (a) the cultivation of land,
- (b) the raising of live stock, including poultry,
- (c) the raising of fur-bearing animals and game birds,
- (d) the production of agricultural crops, including mushrooms, greenhouse crops and nursery stock,
- (e) the production of eggs and milk,
- (f) the operation of agricultural machinery and equipment, including irrigation pumps,
- (g) the process necessary to prepare a farm product for distribution from the farm gate,
- (h) the application of fertilizers, conditioners and pesticides, including ground and aerial spraying, and
- (i) the storage, disposal or use of organic wastes for farm purposes;

“Board” means the Farm Practices Protection Board established under section 3;

“land use control law” means any Act and any regulation, plan or by-law made under the authority of an Act that restricts or prescribes the use to which land or premises

may be put or the nature of business or activities that may be carried on on any land or premises;

“Minister” means the Minister of Agriculture and Food;

“normal farm practice” means a practice that is conducted in a manner consistent with proper and accepted customs or standards as established and followed by similar agricultural operations under similar circumstances;

“person” includes an unincorporated association.

Protection
from
nuisance
claims

2.—(1) A person who carries on an agricultural operation and who, in respect of that agricultural operation, does not violate,

(a) any land use control law;

R.S.O. 1980,
c. 141

(b) the *Environmental Protection Act*;

R.S.O. 1980,
c. 376

(c) the *Pesticides Act*;

1983, c. 10

(d) the *Health Protection and Promotion Act, 1983*; or

R.S.O. 1980,
c. 361

(e) the *Ontario Water Resources Act*,

is not liable in nuisance to any person for any odour, noise or dust resulting from the agricultural operation as a result of a normal farm practice and shall not be prevented by injunction or other order of a court from carrying on the agricultural operation because it causes or creates an odour, a noise or dust.

Where
subsection
(1) does not
apply

(2) Subsection (1) does not apply to an owner or operator of an agricultural operation that fails to obey an order of the Board made under clause 5 (3) (b).

Farm
Practices
Protection
Board

3.—(1) The Farm Practices Protection Board is hereby established and shall consist of not less than five members appointed by the Minister.

Chairperson
of Board

(2) The Minister may designate one of the members of the Board as chairperson and one or more of the remaining members as vice-chairperson.

Duties of
chairperson

(3) The chairperson of the Board is responsible for the general supervision and direction over the conduct of the affairs of the Board and, in his or her absence or if he or she is unable to act, the vice-chairperson shall have all the powers of the chairperson.

(4) The members of the Board may be appointed to hold office for a term not exceeding three years and may be reappointed, but no member shall hold office for more than six years, whether the member's appointments are for consecutive terms or not.

Term

(5) The members of the Board who are not public servants of Ontario shall be paid such remuneration and expenses as the Lieutenant Governor in Council determines.

Remuneration

(6) The Board may, subject to the *Statutory Powers Procedure Act*, make rules for the conduct and management of its affairs and for the practice and procedure to be observed in matters before it, and may require that a person seeking a determination of a matter by the Board shall give written notice, in such form and manner as the Board specifies, to the persons that the Board specifies.

Procedures
R.S.O. 1980,
c. 484

(7) The chairperson or vice-chairperson and one other member constitute a quorum and are sufficient for the exercise of all of the jurisdiction and powers of the Board.

Quorum

4.—(1) The Board may exercise such powers and shall perform such duties as are conferred or imposed upon it by or under this Act including the power,

Duties and
powers of
Board

- (a) on the request of an aggrieved person, to inquire into and resolve a dispute respecting an agricultural operation including the determination as to what constitutes a normal farm practice; and
- (b) to make such inquiries and orders as are necessary to ensure that there is compliance with its decisions.

(2) The Board shall provide the Minister with any information requested by the Minister as to the policies, procedures and operations of the Board.

Information
to be made
available to
Minister

(3) The Minister may order the Board to study any matter related to farm practices and the Board shall conduct the study and report its findings and recommendations to the Minister.

Board to
conduct
studies

5.—(1) Where a person is aggrieved by any odour, noise or dust resulting from an agricultural operation, the person may apply in writing to the Board for a determination as to whether the odour, noise or dust results from a normal farm practice.

Complaints
re: farm
practices

Form of
application

(2) Every application under subsection (1) shall contain a statement of the nature of the complaint, the name and address of the person making the application and the name and address of the agricultural operation and shall be in a form acceptable to the Board.

Hearing and
order

(3) The Board shall hold a hearing and shall,

- (a) dismiss the complaint if the Board is of the opinion that the odour, noise or dust results from a normal farm practice; or
- (b) order the owner or operator of the agricultural operation to cease the practice causing the odour, noise or dust if it is not a normal farm practice or to modify the practice in the manner set out in the order to be consistent with normal farm practice.

Refusal to
hear
application

(4) The Board may refuse to hear an application or, after a hearing has commenced, refuse to continue the hearing or to make a decision if in its opinion,

- (a) the subject-matter of the application is trivial;
- (b) the application is frivolous or vexatious or is not made in good faith; or
- (c) the applicant has not a sufficient personal interest in the subject-matter of the application.

Appeal

(5) Any party to a hearing under subsection (3) may appeal an order of the Board on any question of fact or law or both to the Divisional Court within thirty days of the making of the order.

Professional
assistance

(6) The Board may appoint one or more persons having technical or special knowledge of any matter to assist the Board in any capacity in respect of any matter before it.

Injunction
proceedings
in abeyance

6.—(1) Where a farm practice is the subject of an application made under subsection 5 (1), no injunction proceedings may be commenced or continued in respect of that farm practice until the Board has made an order or dismissed the application under subsection 5 (3) or has refused to hear the application.

Exception

R.S.O. 1980,
cc. 141, 361

(2) Subsection (1) does not apply to any proceedings taken under the *Environmental Protection Act* or the *Ontario Water Resources Act*.

7. The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing forms and providing for their use;
- (b) prescribing fees payable in respect of an application made under subsection 5 (1) and authorizing - refunds.

8. This Act comes into force on the day it receives Royal Assent. Commence-
ment

9. The short title of this Act is the *Farm Practices Protection Act, 1987*. Short title

Bill 83

An Act respecting the Protection of Farm Practices

The Hon. J. Riddell

Minister of Agriculture and Food



1st Reading December 17th, 1987
2nd Reading November 16th, 1988
3rd Reading
Royal Assent

(Reprinted as amended by the Resources Development Committee)

EXPLANATORY NOTES

The purpose of the Bill is to protect persons engaged in agricultural operations from claims for nuisance in respect of odour, noise or dust resulting from those operations if they are normal farm practices. (Section 2)

A Farm Practices Protection Board is established to resolve any disputes as to what constitutes a normal farm practice. (Sections 3, 4 and 5)

Bill 83**1987****An Act respecting the Protection of Farm Practices**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“agricultural operation” means an agricultural, aquacultural, horticultural or silvicultural operation that is carried on in the expectation of gain or reward, and includes,

- (a) the cultivation of land,
- (b) the raising of live stock, including poultry,
- (c) the raising of fur-bearing animals and game birds,
- (d) the production of agricultural crops, including mushrooms, greenhouse crops and nursery stock,
- (e) the production of eggs and milk,
- (f) the operation of agricultural machinery and equipment, including irrigation pumps,
- (g) the process necessary to prepare a farm product for distribution from the farm gate,
- (h) the application of fertilizers, conditioners and pesticides, including ground and aerial spraying, and
- (i) the storage, disposal or use of organic wastes for farm purposes;

“Board” means the Farm Practices Protection Board established under section 3;

“land use control law” means any Act and any regulation, plan or by-law made under the authority of an Act that restricts or prescribes the use to which land or premises

may be put or the nature of business or activities that may be carried on on any land or premises;

“Minister” means the Minister of Agriculture and Food;

“normal farm practice” means a practice that is conducted in a manner consistent with proper and accepted customs and standards as established and followed by similar agricultural operations under similar circumstances and includes the use of innovative technology used with advanced management practices;

“person” includes an unincorporated association.

Protection
from
nuisance
claims

2.—(1) A person who carries on an agricultural operation and who, in respect of that agricultural operation, does not violate,

(a) any land use control law;

R.S.O. 1980,
c. 141

(b) the *Environmental Protection Act*;

R.S.O. 1980,
c. 376

(c) the *Pesticides Act*;

1983, c. 10

(d) the *Health Protection and Promotion Act, 1983*; or

R.S.O. 1980,
c. 361

(e) the *Ontario Water Resources Act*,

is not liable in nuisance to any person for any odour, noise or dust resulting from the agricultural operation as a result of a normal farm practice and shall not be prevented by injunction or other order of a court from carrying on the agricultural operation because it causes or creates an odour, a noise or dust.

Where
subsection
(1) does not
apply

(2) Subsection (1) does not apply to an owner or operator of an agricultural operation that fails to obey an order of the Board made under clause 5 (3) (b).

Farm
Practices
Protection
Board

3.—(1) The Farm Practices Protection Board is hereby established and shall consist of not less than five members appointed by the Minister.

Chairperson
of Board

(2) The Minister may designate one of the members of the Board as chairperson and one or more of the remaining members as vice-chairperson.

Duties of
chairperson

(3) The chairperson of the Board is responsible for the general supervision and direction over the conduct of the affairs of the Board and, in his or her absence or if he or she is

unable to act, the vice-chairperson shall have all the powers of the chairperson.

(4) The members of the Board may be appointed to hold office for a term not exceeding three years and may be reappointed, but no member shall hold office for more than six years, whether the member's appointments are for consecutive terms or not.

Term

(5) The members of the Board who are not public servants of Ontario shall be paid such remuneration and expenses as the Lieutenant Governor in Council determines.

Remuneration

(6) The Board may, subject to the *Statutory Powers Procedure Act*, make rules for the conduct and management of its affairs and for the practice and procedure to be observed in matters before it, and may require that a person seeking a determination of a matter by the Board shall give written notice, in such form and manner as the Board specifies, to the persons that the Board specifies.

Procedures
R.S.O. 1980,
c. 484

(7) The chairperson or vice-chairperson and two other members constitute a quorum and are sufficient for the exercise of all of the jurisdiction and powers of the Board.

Quorum

4.—(1) The Board may exercise such powers and shall perform such duties as are conferred or imposed upon it by or under this Act including the power,

Duties and
powers of
Board

- (a) on the request of an aggrieved person, to inquire into and resolve a dispute respecting an agricultural operation including the determination as to what constitutes a normal farm practice; and
- (b) to make such inquiries and orders as are necessary to ensure that there is compliance with its decisions.

(2) The Board shall provide the Minister with any information requested by the Minister as to the policies, procedures and operations of the Board.

Information
to be made
available to
Minister

(3) The Minister may order the Board to study any matter related to farm practices and the Board shall conduct the study and report its findings and recommendations to the Minister.

Board to
conduct
studies

5.—(1) Where a person is aggrieved by any odour, noise or dust resulting from an agricultural operation, the person may apply in writing to the Board for a determination as to

Complaints
re: farm
practices

whether the odour, noise or dust results from a normal farm practice.

Form of
application

(2) Every application under subsection (1) shall contain a statement of the nature of the complaint, the name and address of the person making the application and the name and address of the agricultural operation and shall be in a form acceptable to the Board.

Hearing and
order

(3) The Board shall hold a hearing and shall,

- (a) dismiss the complaint if the Board is of the opinion that the odour, noise or dust results from a normal farm practice; or
- (b) order the owner or operator of the agricultural operation to cease the practice causing the odour, noise or dust if it is not a normal farm practice or to modify the practice in the manner set out in the order to be consistent with normal farm practice.

Refusal to
hear
application

(4) The Board may refuse to hear an application or, after a hearing has commenced, refuse to continue the hearing or to make a decision if in its opinion,

- (a) the subject-matter of the application is trivial;
- (b) the application is frivolous or vexatious or is not made in good faith; or
- (c) the applicant has not a sufficient personal interest in the subject-matter of the application.

Appeal

(5) Any party to a hearing under subsection (3) may appeal an order of the Board on any question of fact or law or both to the Divisional Court within thirty days of the making of the order.

Professional
assistance

(6) The Board may appoint one or more persons having technical or special knowledge of any matter to assist the Board in any capacity in respect of any matter before it.

Injunction
proceedings
in abeyance

6.—(1) Where a farm practice is the subject of an application made under subsection 5 (1), no injunction proceedings may be commenced or continued in respect of that farm practice until the Board has made an order or dismissed the application under subsection 5 (3) or has refused to hear the application.

(2) Subsection (1) does not apply to any proceedings taken under the *Environmental Protection Act*, the *Pesticides Act* or the *Ontario Water Resources Act*.

Exception

R.S.O. 1980,
cc. 141, 376,
361

7. The Lieutenant Governor in Council may make regulations,

Regulations

(a) prescribing forms and providing for their use;

(b) prescribing fees payable in respect of an application made under subsection 5 (1) and authorizing refunds;

(c) prescribing the composition of the Board.

8. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

9. The short title of this Act is the *Farm Practices Protection Act, 1988*.

Short title

1ST SESSION, 34TH LEGISLATURE, ONTARIO

36 ELIZABETH II, 1987

Bill 84

An Act to amend the Corporations Tax Act

The Hon. B. Grandmaître
Minister of Revenue



1st Reading December 17th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

GENERAL. The Bill implements the proposals in the Treasurer's Budget of May 20, 1987, the temporary reduction in capital tax for corporations that are farm equipment dealers and amends the *Corporations Tax Act* (the "Act") consequential upon the passage of amendments to the *Income Tax Act* (Canada) (the "Federal Act").

SECTION 1. The re-enactment of subclause 1 (2) (d) (iv) of the Act is consequential upon amendments to the Federal Act to ensure that,

- (a) the rules for determining the capital cost of depreciable property acquired by a corporation from a non-arm's length vendor who claims the capital gains exemption with respect to that property continue to be the same for both Federal and Ontario corporate income tax purposes;
- (b) the reduction in the paid-up capital of a class of a corporation's shares in respect of share purchase tax credit and scientific research tax credit flow-through shares continues to be the same for Federal and Ontario corporate income tax purposes;
- (c) Federal investment tax credit claims in respect of qualified Canadian exploration expenses are deducted from a corporation's cumulative Canadian exploration expense pool for both Federal and Ontario corporate income tax purposes; and
- (d) limited partnership losses incurred by corporations are calculated and deductible in a similar manner under both the Act and the Federal Act.

SECTION 2. Section 2 repeals two spent provisions of the Act.

SECTION 3. The re-enactment of clause 17 (1) (a) and subclause 17 (2) (a) (i) of the Act is consequential upon amendments to the Federal Act to permit the deduction of expenses relating to special oil recovery techniques and continues the Treasurer's existing policy to parallel for Ontario purposes the Federal definition of Canadian exploration expenses.

SECTION 4.—Subsections 1 and 2. The amendments to subsection 18 (14) of the Act, and new section 18b set out in this Bill, continue the flow-through of resource expenditures to holders of "flow-through shares" using the new mechanism introduced in the Federal Act.

Subsection 3. The amendment to clause 18 (14) (e) of the Act is consequential upon an amendment to the Federal Act that changed the statutory reference for the definition of an "oil or gas well".

SECTION 5. New section 18b of the Act, with the amendments to subsection 18 (14) set out in this Bill, continues the flow-through of resource expenditures to holders of "flow-through shares" using the new mechanism introduced in the Federal Act.

SECTION 6. The enactment of section 19a of the Act parallels rules in the Federal Act prohibiting a taxable corporation from deducting cumulative resource expenditures incurred by a predecessor corporation that was a tax-exempt entity.

SECTION 7. The re-enactment of clause 21 (1) (a) of the Act clarifies that subsection 245 (1.1) of the Federal Act, which applies only to individuals, does not apply for Ontario corporate income tax purposes.

SECTION 8. The re-enactment of clause 22 (b) of the Act removes the income tax exemption for amounts previously subject to incremental oil revenue tax under the *Petroleum and Gas Revenue Tax Act* (Canada) and is consequential upon the phasing out of incremental oil revenue tax.

SECTION 9. Subsections 23 (3) and (4) of the Act are re-enacted to include amendments consequential upon amendments to the Federal Act relating to amalgamations and corporate wind-ups, and are required to exclude the operation of the Federal provisions relating to a notional tax account that does not exist for Ontario tax purposes.

SECTION 10. The enactment of subsection 25 (6) of the Act recognizes the difference in foreign exploration and development expenses deductible under the Act and the Federal Act and provides that a limited partnership loss for Ontario purposes is adjusted by only those expenses deductible for Ontario purposes.

SECTIONS 11 and 12. The enactments of subsection 27 (8) and clause 29 (1) (c) are consequential upon amendments to the Federal Act relating to amounts which are exempt from Federal income tax by reason of a Federal tax treaty with another country but which are taxable under the Act. The enactment of subsection 27 (9) adjusts the amount of a limited partnership loss deductible in future years in the manner provided in subsection 25 (6) of the Act which is set out in this Bill.

SECTION 13.—Subsection 1. The amendments to subsection 40 (2) of the Act are consequential upon the amendments to subsection 73 (7) of the Act, set out in this Bill.

Subsection 2. The re-enactment of clause 40 (5) (b) of the Act eliminates a reference to a Federal surtax which does not apply for Ontario purposes.

SECTION 14. Clause 49 (1) (a) of the Act is re-enacted to add a reference to paragraph 149 (1) (o.3) of the Federal Act in order to parallel the Federal tax exemption for small business investment corporations established and owned by pension funds.

SECTION 15. The re-enactment of subsection 54 (2c) of the Act is consequential upon amendments to the Federal Act and clarifies the existing policy relating to the inclusion in paid-up capital of certain liabilities.

SECTION 16. Subsection 61 (4) of the Act is re-enacted to clarify the application of section 61, set out in the first line of the subsection.

SECTION 17. New section 61a of the Act provides a two-year reduction in capital tax payable by farm equipment dealers whose principal business is the retail sale, leasing or servicing of farm equipment, to \$200 on the first \$3,000,000 of taxable paid-up capital.

SECTION 18.—Subsections 1, 2 and 3. The amendments to subsections 73 (2), (3) and (4) are consequential upon the introduction of the concept of “limited partnership losses” in the Federal Act.

Subsections 4, 5 and 6. The amendments to subsection 73 (7) of the Act implement the provisions in the Treasurer’s Budget of May 20, 1987 to reduce the period during which the Minister may reassess the tax owed by a corporation, and to provide a transitional rule to ensure that later years do not become statute-barred before prior years.

SECTION 19. The repeal of subsection 91 (4) is consequential upon the transfer to the Ministry of Revenue of the responsibility for the administration of the *Mining Tax Act*.

Bill 84

1987

An Act to amend the Corporations Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subclause 1 (2) (d) (iv) of the *Corporations Tax Act*, being chapter 97 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1984, chapter 29, section 1 and amended by 1985, chapter 11, section 1, is repealed and the following substituted therefor:

(iv) where subclause (i) applies,

(A) the other provision shall be deemed to apply for the purposes of the application of sections 12 and 12.2, subsection 13 (7), section 20, subparagraphs 53 (2) (c) (vi), (vii) and (viii) and 53 (2) (h) (ii), (iii) and (iv), sections 56 and 60, subparagraph 66.1 (6) (b) (xi), section 88, paragraph 95 (1) (f), subsection 96 (2.1), paragraphs 111 (1) (e) and 127.2 (6) (a), subsections 127.2 (8) and 127.3 (6), paragraph 133 (8) (b), subsection 137 (4.3), section 138, paragraph 138.1 (1) (k) and section 248 of the *Income Tax Act* (Canada) for the purposes of this Act,

R.S.C. 1952,
c. 148

(B) subsections 192 (4.1) and 194 (4.1) of the *Income Tax Act* (Canada) shall be deemed to apply for the purposes of the application of clause 89 (1) (c) (ii) (C) of that Act for the purposes of this Act, and

(C) the other provision shall not apply for the purposes of the application of any provision of the *Income Tax Act* (Canada), other than a section, subsection,

R.S.C. 1952,
c. 148

paragraph, subparagraph or clause referred to in sub-subclause (A) or (B), for the purposes of this Act.

2.—(1) Subsection 16 (1b) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 29, section 5, is repealed.

(2) Subsection 16 (2) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 5, is repealed.

3.—(1) Clause 17 (1) (a) of the said Act is repealed and the following substituted therefor:

- (a) a natural accumulation of petroleum or natural gas, oil or gas well, mineral resource or timber limit; or

.

(2) Subclause 17 (2) (a) (i) of the said Act is repealed and the following substituted therefor:

- (i) natural accumulations of petroleum or natural gas, oil or gas wells or mineral resources in which the corporation has an interest, or

.

4.—(1) Subsection 18 (14) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 6 and amended by the Statutes of Ontario, 1983, chapter 29, section 7, is further amended by striking out “section 18a” in the first line and inserting in lieu thereof “in sections 18a and 18b”.

(2) Subsection 18 (14) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 6 and amended by the Statutes of Ontario, 1983, chapter 29, section 7, is further amended by adding thereto the following clauses:

- (aa) “assistance” has the meaning given to that expression by paragraph 66 (15) (a.1) of the *Income Tax Act* (Canada);

.

- (ca) “flow-through share” has the meaning given to that expression by paragraph 66 (15) (d.1) of the *Income Tax Act* (Canada) and includes a share issued pursuant to an agreement entered into by a corporation after the 28th day of February, 1986 and before the

1st day of January, 1987 which qualifies as a “flow-through share” for the purposes of that Act;

- (ia) “selling instrument” has the meaning given to that expression by paragraph 66 (15) (h.1) of the *Income Tax Act* (Canada).

(3) Clause 18 (14) (e) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 6, is amended by striking out “paragraph 66 (15) (g.1)” in the second line and inserting in lieu thereof “subsection 248 (1)”.

5. The said Act is amended by adding thereto the following section:

18b. Subsections 66 (12.6) to (12.73), (16) and (17) of the *Income Tax Act* (Canada) are applicable for the purposes of this Act in so far as they apply to corporations, except that in the application thereof,

Application
of
R.S.C. 1952,
c. 148,
s. 66 (12.6)
to (12.73),
(16) and (17)

- (a) references to “the Minister” in subsections 66 (12.68), (12.69) and (12.73) of that Act shall be read as references to the Minister of National Revenue;
- (b) the reference to “this Part” in subsection 66 (12.71) of that Act shall be read as a reference to Part II of this Act; and
- (c) a prescribed form referred to in subsection 66 (12.68), (12.69) or (12.7) of that Act that was required to be filed, and that was filed, on or before the 19th day of March, 1987, shall be deemed to have been filed at the time required under that subsection.

6. The said Act is further amended by adding thereto the following section:

19a. Section 66.6 of the *Income Tax Act* (Canada) is applicable for the purposes of this Act with the references therein to “this Part” read as references to Part II of this Act.

Application
of
R.S.C. 1952,
c. 148,
s. 66.6

7. Clause 21 (1) (a) of the said Act is repealed and the following substituted therefor:

- (a) subsection (1.1) and paragraph (2) (b) thereof are not applicable; and

8. Clause 22 (b) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 29, section 8, is repealed and the following substituted therefor:

- (b) an amount determined in accordance with the rules provided in paragraph 81 (1) (b), (c), (l) or (m) of the *Income Tax Act* (Canada).

R.S.C. 1952,
c. 148

9.—(1) Subsection 23 (3) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 11, section 8, is repealed and the following substituted therefor:

Idem

- (3) Paragraphs 87 (2) (y.1), (z), (cc) and (pp) and 88 (1) (e.7) of the *Income Tax Act* (Canada) are not applicable for the purposes of this Act.

(2) Subsection 23 (4) of the said Act, as amended by the Statutes of Ontario, 1985, chapter 11, section 8, is repealed and the following substituted therefor:

Application
of
R.S.C. 1952,
c. 148, s. 88
(1) (e.2)

- (4) Paragraph 88 (1) (e.2) of the *Income Tax Act* (Canada) shall, in its application for the purposes of this Act, be read without reference therein to paragraphs 87 (2) (y.1), (cc) and (pp) of the said Act, and as though the reference therein to paragraph 87 (2) (p) were a reference to subsection (2) of this section.

10. Section 25 of the said Act, as amended by the Statutes of Ontario, 1985, chapter 11, section 10, is further amended by adding thereto the following subsection:

Application
of
R.S.C. 1952,
c. 148, s. 96
(2.1) (b) (iv)
(A)

- (6) For the purposes of this Act, the amount referred to in clause 96 (2.1) (b) (iv) (A) of the *Income Tax Act* (Canada) shall equal the corporation's share of the foreign exploration and development expenses incurred by the partnership in the fiscal period that are deductible in computing income for the purposes of this Act.

11. Section 27 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 29, section 8 and 1986, chapter 39, section 8, is further amended by adding thereto the following subsections:

Idem
R.S.C. 1952,
c. 148,
s. 110 (1) (f)
(i)

- (8) Subparagraph 110 (1) (f) (i) of the *Income Tax Act* (Canada) is not applicable for the purposes of this Act.

(9) For the purposes of this Act, the amount referred to in subclause 111 (1) (e) (ii) (C) (I) of the *Income Tax Act* (Canada) shall equal the corporation's share of the foreign exploration and development expenses incurred by the partnership in that fiscal period that are deductible in computing income for the purposes of this Act.

Idem.
R.S.C. 1952,
c. 148,
s. 111 (1)
(e) (ii) (C)
(I)

12. Subsection 29 (1) of the said Act, as amended by the Statutes of Ontario, 1985, chapter 11, section 12, is further amended by striking out “and” at the end of clause (a), by adding “and” at the end of clause (b) and by adding thereto the following clause:

- (c) in the application of paragraph 115 (1) (d) of the *Income Tax Act* (Canada), no deduction is permitted with respect to an amount referred to in subparagraph 110 (1) (f) (i) of that Act.

13.—(1) Clauses 40 (2) (c) and (d) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 11, section 19, are repealed and the following substituted therefor:

- (c) subparagraph (b) (i) shall be read in its entirety as “the 7 year period referred to in clause 73 (7) (b), where that clause applies”; and
- (d) subparagraph (b) (ii) shall be read in its entirety as “the period referred to in clause 73 (7) (c), in any other case”.

(2) Clause 40 (5) (b) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 29, section 15, is repealed and the following substituted therefor:

- (b) the reference in clause (C) of the said subparagraph to “this Part” shall be read as a reference to Part II of this Act, and the said clause shall be read without reference to the words “determined without reference to section 123.2”.

14. Clause 49 (1) (a) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 9, is repealed and the following substituted therefor:

- (a) a corporation referred to in paragraph 149 (1) (c), (d), (e), (f), (h.1), (i), (j), (k), (m), (n), (o), (o.1), (o.2) or (o.3) of the *Income Tax Act* (Canada).

R.S.C. 1952,
c. 148

15. Subsection 54 (2c) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 29, section 18, is repealed and the following substituted therefor:

Idem

(2c) For the purposes of this Part, “any other surplus” at the close of a taxation year includes, in addition to any other amount included therein by virtue of this section,

- (a) all amounts, other than accounts payable referred to in subsection 53 (1a), owing by the corporation in respect of expenses deductible by the corporation in the calculation of its income subject to tax under Part II, if the amounts are owing to a person with whom the corporation was not dealing at arm’s length at the time the liability was incurred; and
- (b) dividends declared,

which were unpaid at the close of the preceding taxation year and remain unpaid and owing to a person with whom the corporation was not dealing at arm’s length at the close of the taxation year.

16. Subsection 61 (4) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 37, section 13 and amended by the Statutes of Ontario, 1983, chapter 29, section 19 and 1986, chapter 39, section 13, is repealed and the following substituted therefor:

Where
corporation is
associated
with or
member of a
partnership

(4) Subsections (1) and (2) do not apply to a corporation where,

- (a) the corporation is associated with one or more other corporations and the aggregate of the taxable paid-up capital of the corporation and of each corporation with which it is associated exceeds \$1,000,000 or \$2,000,000 with respect to a loss year of the corporation as defined in subsections (5) and (6); or
- (b) the corporation is a member of a partnership or a connected partnership and the aggregate of,
 - (i) the taxable paid-up capital of the corporation, and
 - (ii) the aggregate of the shares of the taxable paid-up capital of the partnership or the connected partnership that are allocable under subsection 53 (4) to each person related to the corporation, to the extent that such amounts

are not already included in the taxable paid-up capital of the corporation by virtue of clause 53 (4) (c) or clause (a) of this subsection,

- exceeds \$1,000,000 or \$2,000,000 with respect to a loss year of the corporation as defined in subsections (5) and (6).

17. The said Act is further amended by adding thereto the following section:

61a.—(1) In this section, “a corporation that is a farm equipment dealer” means a corporation whose principal business throughout the taxation year is the retail sale, leasing or servicing of farm equipment, or any combination thereof, but does not include a corporation substantially all of the business of which throughout the taxation year is the servicing of farm equipment.

Farm equipment dealer

(2) Notwithstanding subsections 58 (1) and 59 (1), the tax payable under this Part by a corporation that is a farm equipment dealer for each of its first two taxation years commencing after the 31st day of December, 1986 and before the 1st day of January, 1989, shall be,

Capital tax payable by farm equipment dealer

- (a) where the amount subject to tax under this Part does not exceed \$3,000,000, the lesser of,

- (i) \$200, and

- (ii) either,

- (A) where the corporation is otherwise eligible to pay tax under subsection 61 (1) or (2), the tax that would be payable thereunder, or

- (B) in any other case, the tax otherwise payable under this Part calculated under subsections 58 (1) and 59 (1); and

- (b) where the amount subject to tax under this Part is in excess of \$3,000,000, the lesser of,

- (i) the aggregate of,

- (A) \$200, and

- (B) the tax that would be payable, under subsections 58 (1) and 59 (1), but not section 61, if the amount subject to tax under this Part was the amount of such excess, and
- (ii) the tax otherwise payable under subsections 58 (1) and 59 (1).

18.—(1) Subsection 73 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 29, section 20, is amended by striking out “or farm loss” in the third line and inserting in lieu thereof “farm loss or limited partnership loss”.

(2) Subsection 73 (3) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 29, section 20, is further amended by striking out “or farm loss” in the amendment of 1984 and inserting in lieu thereof “farm loss or limited partnership loss”.

(3) Subsection 73 (4) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 29, section 20, is further amended by striking out “or farm loss” in the amendment of 1984 and inserting in lieu thereof “farm loss or limited partnership loss”.

(4) Subclause 73 (7) (a) (iv) of the said Act is repealed and the following substituted therefor:

- (iv) has filed with the Minister a waiver in a prescribed form on or before the later of,
 - (A) the expiry of a four-year period commencing on the day of mailing of a notice of an original assessment or of a notification that no tax is payable for a taxation year, and
 - (B) the latest day such a waiver could be filed under this Act for any previous taxation year, or

(5) Clause 73 (7) (b) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 29, section 20, is amended by striking out “eight” in the first line and inserting in lieu thereof “seven”.

(6) Clause 73 (7) (c) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 29, section 20, is repealed and the following substituted therefor:

- (c) in any other case, on or before the later of,
 - (i) the expiry of a four-year period commencing on the day of mailing of a notice of the original assessment or of a notification that no tax is payable for the taxation year, and
 - (ii) the latest day on which a reassessment, additional assessment or assessment can be made under any predecessor of this clause for any previous taxation year.

19. Subsection 91 (4) of the said Act is repealed.

20.—(1) This Act, except as provided in subsections (2) to (20), comes into force on the day it receives Royal Assent.

Commence-
ment and
application

(2) Subsection 27 (8) of the said Act, as enacted by section 11 of this Act, and section 12 of this Act shall be deemed to have come into force on the 1st day of January, 1982, and apply with respect to taxation years of corporations ending after the 31st day of December, 1981.

Idem

(3) Section 9 shall be deemed to have come into force on the 1st day of January, 1985, and applies with respect to taxation years of corporations ending after the 31st day of December, 1984.

Idem

(4) Section 3 and subsection 4 (3) shall be deemed to have come into force on the 1st day of April, 1985, and apply with respect to taxation years of corporations ending after the 31st day of March, 1985.

Idem

(5) Subclause 1 (2) (d) (iv) of the said Act, other than sub-subclause (B) thereof, as re-enacted by section 1 of this Act, shall be deemed to have come into force on the 23rd day of May, 1985, except as provided in subsections (10) and (12), and in the application thereof, the “other provision” referred to in sub-subclause (A) shall apply for the purposes of the application of subsection 13 (7) of the *Income Tax Act* (Canada) for the purposes of the said Act only with respect to property acquired by a corporation after the 22nd day of May, 1985, other than property acquired by the corporation before the 1st day of January, 1986 pursuant to a written agreement entered into by the corporation before the 23rd day of May, 1985.

Idem

R.S.C. 1952,
c. 148

Idem

(6) Sub-subclause 1 (2) (d) (iv) (B) of the said Act, as enacted by section 1 of this Act, shall be deemed to have come into force on the 24th day of May, 1985.

Idem

(7) Section 6 shall be deemed to have come into force on the 20th day of July, 1985, and applies with respect to taxation years of corporations ending after the 19th day of July, 1985.

Idem

(8) Section 14 shall be deemed to have come into force on the 1st day of November, 1985.

Idem

(9) Section 7 shall be deemed to have come into force on the 22nd day of November, 1985.

Idem

(10) The reference to subparagraph 66.1 (6) (b) (xi) of the *Income Tax Act* (Canada) in sub-subclause 1 (2) (d) (iv) (A) of the said Act, as enacted by section 1 of this Act, shall be deemed to have come into force on the 1st day of December, 1985, and applies with respect to expenditures made after the 30th day of November, 1985.

Idem

(11) Section 8 shall be deemed to have come into force on the 1st day of January, 1986, and applies with respect to taxation years of corporations ending after the 31st day of December, 1985.

Idem

R.S.C. 1952,
c. 148

(12) The reference to subsection 96 (2.1) and paragraph 111 (1) (e) of the *Income Tax Act* (Canada) in sub-subclause 1 (2) (d) (iv) (A) of the said Act, as enacted by section 1 of this Act, section 10 of this Act, subsection 27 (9) of the said Act, as enacted by section 11 of this Act and subsections 18 (1), (2) and (3) of this Act shall be deemed to have come into force on the 26th day of February, 1986.

Idem

(13) Section 15 shall be deemed to have come into force on the 26th day of February, 1986, and applies with respect to liabilities incurred by corporations in taxation years commencing after the 25th day of February, 1986.

Idem

(14) Subsection 4 (1) of this Act and clause 18 (14) (ca) of the said Act, as enacted by subsection 4 (2) of this Act, shall be deemed to have come into force on the 1st day of March, 1986.

Idem

(15) Clauses 18 (14) (aa) and (ia) of the said Act, as enacted by subsection 4 (2) of this Act, and the application of subsections 66 (12.6) to (12.73) of the *Income Tax Act* (Canada) for the purposes of the said Act, as enacted by section 5 of this Act, shall be deemed to have come into force on the 1st day of March, 1986, and apply with respect to expenses incurred after the 28th day of February, 1986.

(16) The application of subsections 66 (16) and (17) of the *Income Tax Act* (Canada) for the purposes of the said Act, as enacted by section 5 of this Act, shall be deemed to have come into force on the 1st day of March, 1986, with respect to fiscal periods of partnerships ending after the 28th day of February, 1986.

Idem
R.S.C. 1952,
c. 148

(17) Section 19 shall be deemed to have come into force on the 15th day of May, 1986.

Idem

(18) Sections 2 and 17 shall be deemed to have come into force on the 1st day of January, 1987.

Idem

(19) Subsection 13 (2) shall be deemed to have come into force on the 1st day of January, 1987, and applies with respect to taxation years of corporations ending after the 31st day of December, 1986.

Idem

(20) Subsections 13 (1) and 18 (4), (5) and (6) come into force on the day this Act receives Royal Assent and apply with respect to reassessments and assessments for taxation years of corporations commencing after the day this Act receives Royal Assent.

Idem

21. The short title of this Act is the *Corporations Tax Amendment Act, 1987*.

Short title

Bill 84

(Chapter 42
Statutes of Ontario, 1988)



An Act to amend the Corporations Tax Act

The Hon. B. Grandmaître
Minister of Revenue

<i>1st Reading</i>	December 17th, 1987
<i>2nd Reading</i>	June 22nd, 1988
<i>3rd Reading</i>	June 29th, 1988
<i>Royal Assent</i>	June 29th, 1988

Bill 84

1987

An Act to amend the Corporations Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subclause 1 (2) (d) (iv) of the *Corporations Tax Act*, being chapter 97 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1984, chapter 29, section 1 and amended by 1985, chapter 11, section 1, is repealed and the following substituted therefor:

(iv) where subclause (i) applies,

(A) the other provision shall be deemed to apply for the purposes of the application of sections 12 and 12.2, subsection 13 (7), section 20, subparagraphs 53 (2) (c) (vi), (vii) and (viii) and 53 (2) (h) (ii), (iii) and (iv), sections 56 and 60, subparagraph 66.1 (6) (b) (xi), section 88, paragraph 95 (1) (f), subsection 96 (2.1), paragraphs 111 (1) (e) and 127.2 (6) (a), subsections 127.2 (8) and 127.3 (6), paragraph 133 (8) (b), subsection 137 (4.3), section 138, paragraph 138.1 (1) (k) and section 248 of the *Income Tax Act* (Canada) for the purposes of this Act,

R.S.C. 1952,
c. 148

(B) subsections 192 (4.1) and 194 (4.1) of the *Income Tax Act* (Canada) shall be deemed to apply for the purposes of the application of clause 89 (1) (c) (ii) (C) of that Act for the purposes of this Act, and

(C) the other provision shall not apply for the purposes of the application of any provision of the *Income Tax Act* (Canada), other than a section, subsection,

paragraph, subparagraph or clause referred to in sub-subclause (A) or (B), for the purposes of this Act.

2.—(1) Subsection 16 (1b) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 29, section 5, is repealed.

(2) Subsection 16 (2) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 5, is repealed.

3.—(1) Clause 17 (1) (a) of the said Act is repealed and the following substituted therefor:

- (a) a natural accumulation of petroleum or natural gas, oil or gas well, mineral resource or timber limit; or

.

(2) Subclause 17 (2) (a) (i) of the said Act is repealed and the following substituted therefor:

- (i) natural accumulations of petroleum or natural gas, oil or gas wells or mineral resources in which the corporation has an interest, or

.

4.—(1) Subsection 18 (14) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 6 and amended by the Statutes of Ontario, 1983, chapter 29, section 7, is further amended by striking out “section 18a” in the first line and inserting in lieu thereof “in sections 18a and 18b”.

(2) Subsection 18 (14) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 6 and amended by the Statutes of Ontario, 1983, chapter 29, section 7, is further amended by adding thereto the following clauses:

- (aa) “assistance” has the meaning given to that expression by paragraph 66 (15) (a.1) of the *Income Tax Act* (Canada);

.

- (ca) “flow-through share” has the meaning given to that expression by paragraph 66 (15) (d.1) of the *Income Tax Act* (Canada) and includes a share issued pursuant to an agreement entered into by a corporation after the 28th day of February, 1986 and before the

1st day of January, 1987 which qualifies as a “flow-through share” for the purposes of that Act;

- (ia) “selling instrument” has the meaning given to that expression by paragraph 66 (15) (h.1) of the *Income Tax Act* (Canada).

(3) Clause 18 (14) (e) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 6, is amended by striking out “paragraph 66 (15) (g.1)” in the second line and inserting in lieu thereof “subsection 248 (1)”.

5. The said Act is amended by adding thereto the following section:

18b. Subsections 66 (12.6) to (12.73), (16) and (17) of the *Income Tax Act* (Canada) are applicable for the purposes of this Act in so far as they apply to corporations, except that in the application thereof,

Application
of
R.S.C. 1952,
c. 148,
s. 66 (12.6)
to (12.73),
(16) and (17)

- (a) references to “the Minister” in subsections 66 (12.68), (12.69) and (12.73) of that Act shall be read as references to the Minister of National Revenue;
- (b) the reference to “this Part” in subsection 66 (12.71) of that Act shall be read as a reference to Part II of this Act; and
- (c) a prescribed form referred to in subsection 66 (12.68), (12.69) or (12.7) of that Act that was required to be filed, and that was filed, on or before the 19th day of March, 1987, shall be deemed to have been filed at the time required under that subsection.

6. The said Act is further amended by adding thereto the following section:

19a. Section 66.6 of the *Income Tax Act* (Canada) is applicable for the purposes of this Act with the references therein to “this Part” read as references to Part II of this Act.

Application
of
R.S.C. 1952,
c. 148,
s. 66.6

7. Clause 21 (1) (a) of the said Act is repealed and the following substituted therefor:

- (a) subsection (1.1) and paragraph (2) (b) thereof are not applicable; and

8. Clause 22 (b) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 29, section 8, is repealed and the following substituted therefor:

- (b) an amount determined in accordance with the rules provided in paragraph 81 (1) (b), (c), (l) or (m) of the *Income Tax Act* (Canada).

R.S.C. 1952,
c. 148

9.—(1) Subsection 23 (3) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 11, section 8, is repealed and the following substituted therefor:

Idem

(3) Paragraphs 87 (2) (y.1), (z), (cc) and (pp) and 88 (1) (e.7) of the *Income Tax Act* (Canada) are not applicable for the purposes of this Act.

(2) Subsection 23 (4) of the said Act, as amended by the Statutes of Ontario, 1985, chapter 11, section 8, is repealed and the following substituted therefor:

Application
of
R.S.C. 1952,
c. 148, s. 88
(1) (e.2)

(4) Paragraph 88 (1) (e.2) of the *Income Tax Act* (Canada) shall, in its application for the purposes of this Act, be read without reference therein to paragraphs 87 (2) (y.1), (cc) and (pp) of the said Act, and as though the reference therein to paragraph 87 (2) (p) were a reference to subsection (2) of this section.

10. Section 25 of the said Act, as amended by the Statutes of Ontario, 1985, chapter 11, section 10, is further amended by adding thereto the following subsection:

Application
of
R.S.C. 1952,
c. 148, s. 96
(2.1) (b) (iv)
(A)

(6) For the purposes of this Act, the amount referred to in clause 96 (2.1) (b) (iv) (A) of the *Income Tax Act* (Canada) shall equal the corporation's share of the foreign exploration and development expenses incurred by the partnership in the fiscal period that are deductible in computing income for the purposes of this Act.

11. Section 27 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 29, section 8 and 1986, chapter 39, section 8, is further amended by adding thereto the following subsections:

Idem
R.S.C. 1952,
c. 148,
s. 110 (1) (f)
(i)

(8) Subparagraph 110 (1) (f) (i) of the *Income Tax Act* (Canada) is not applicable for the purposes of this Act.

(9) For the purposes of this Act, the amount referred to in subclause 111 (1) (e) (ii) (C) (I) of the *Income Tax Act* (Canada) shall equal the corporation's share of the foreign exploration and development expenses incurred by the partnership in that fiscal period that are deductible in computing income for the purposes of this Act.

Idem
R.S.C. 1952,
c. 148,
s. 111 (1)
(e) (ii) (C)
(I)

12. Subsection 29 (1) of the said Act, as amended by the Statutes of Ontario, 1985, chapter 11, section 12, is further amended by striking out “and” at the end of clause (a), by adding “and” at the end of clause (b) and by adding thereto the following clause:

- (c) in the application of paragraph 115 (1) (d) of the *Income Tax Act* (Canada), no deduction is permitted with respect to an amount referred to in subparagraph 110 (1) (f) (i) of that Act.

13.—(1) Clauses 40 (2) (c) and (d) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 11, section 19, are repealed and the following substituted therefor:

- (c) subparagraph (b) (i) shall be read in its entirety as “the 7 year period referred to in clause 73 (7) (b), where that clause applies”; and
- (d) subparagraph (b) (ii) shall be read in its entirety as “the period referred to in clause 73 (7) (c), in any other case”.

(2) Clause 40 (5) (b) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 29, section 15, is repealed and the following substituted therefor:

- (b) the reference in clause (C) of the said subparagraph to “this Part” shall be read as a reference to Part II of this Act, and the said clause shall be read without reference to the words “determined without reference to section 123.2”.

14. Clause 49 (1) (a) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 9, is repealed and the following substituted therefor:

- (a) a corporation referred to in paragraph 149 (1) (c), (d), (e), (f), (h.1), (i), (j), (k), (m), (n), (o), (o.1), (o.2) or (o.3) of the *Income Tax Act* (Canada).

15. Subsection 54 (2c) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 29, section 18, is repealed and the following substituted therefor:

Idem

(2c) For the purposes of this Part, "any other surplus" at the close of a taxation year includes, in addition to any other amount included therein by virtue of this section,

- (a) all amounts, other than accounts payable referred to in subsection 53 (1a), owing by the corporation in respect of expenses deductible by the corporation in the calculation of its income subject to tax under Part II, if the amounts are owing to a person with whom the corporation was not dealing at arm's length at the time the liability was incurred; and
- (b) dividends declared,

which were unpaid at the close of the preceding taxation year and remain unpaid and owing to a person with whom the corporation was not dealing at arm's length at the close of the taxation year.

16. Subsection 61 (4) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 37, section 13 and amended by the Statutes of Ontario, 1983, chapter 29, section 19 and 1986, chapter 39, section 13, is repealed and the following substituted therefor:

Where
corporation is
associated
with or
member of a
partnership

(4) Subsections (1) and (2) do not apply to a corporation where,

- (a) the corporation is associated with one or more other corporations and the aggregate of the taxable paid-up capital of the corporation and of each corporation with which it is associated exceeds \$1,000,000 or \$2,000,000 with respect to a loss year of the corporation as defined in subsections (5) and (6); or
- (b) the corporation is a member of a partnership or a connected partnership and the aggregate of,
 - (i) the taxable paid-up capital of the corporation, and
 - (ii) the aggregate of the shares of the taxable paid-up capital of the partnership or the connected partnership that are allocable under subsection 53 (4) to each person related to the corporation, to the extent that such amounts

are not already included in the taxable paid-up capital of the corporation by virtue of clause 53 (4) (c) or clause (a) of this subsection,

- exceeds \$1,000,000 or \$2,000,000 with respect to a loss year of the corporation as defined in subsections (5) and (6).

17. The said Act is further amended by adding thereto the following section:

61a.—(1) In this section, “a corporation that is a farm equipment dealer” means a corporation whose principal business throughout the taxation year is the retail sale, leasing or servicing of farm equipment, or any combination thereof, but does not include a corporation substantially all of the business of which throughout the taxation year is the servicing of farm equipment.

Farm equipment dealer

(2) Notwithstanding subsections 58 (1) and 59 (1), the tax payable under this Part by a corporation that is a farm equipment dealer for each of its first two taxation years commencing after the 31st day of December, 1986 and before the 1st day of January, 1989, shall be,

Capital tax payable by farm equipment dealer

- (a) where the amount subject to tax under this Part does not exceed \$3,000,000, the lesser of,

- (i) \$200, and

- (ii) either,

- (A) where the corporation is otherwise eligible to pay tax under subsection 61 (1) or (2), the tax that would be payable thereunder, or

- (B) in any other case, the tax otherwise payable under this Part calculated under subsections 58 (1) and 59 (1); and

- (b) where the amount subject to tax under this Part is in excess of \$3,000,000, the lesser of,

- (i) the aggregate of,

- (A) \$200, and

- (B) the tax that would be payable, under subsections 58 (1) and 59 (1), but not section 61, if the amount subject to tax under this Part was the amount of such excess, and
- (ii) the tax otherwise payable under subsections 58 (1) and 59 (1).

18.—(1) Subsection 73 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 29, section 20, is amended by striking out “or farm loss” in the third line and inserting in lieu thereof “farm loss or limited partnership loss”.

(2) Subsection 73 (3) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 29, section 20, is further amended by striking out “or farm loss” in the amendment of 1984 and inserting in lieu thereof “farm loss or limited partnership loss”.

(3) Subsection 73 (4) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 29, section 20, is further amended by striking out “or farm loss” in the amendment of 1984 and inserting in lieu thereof “farm loss or limited partnership loss”.

(4) Subclause 73 (7) (a) (iv) of the said Act is repealed and the following substituted therefor:

- (iv) has filed with the Minister a waiver in a prescribed form on or before the later of,
 - (A) the expiry of a four-year period commencing on the day of mailing of a notice of an original assessment or of a notification that no tax is payable for a taxation year, and
 - (B) the latest day such a waiver could be filed under this Act for any previous taxation year, or

(5) Clause 73 (7) (b) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 29, section 20, is amended by striking out “eight” in the first line and inserting in lieu thereof “seven”.

(6) Clause 73 (7) (c) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 29, section 20, is repealed and the following substituted therefor:

- (c) in any other case, on or before the later of,
 - (i) the expiry of a four-year period commencing on the day of mailing of a notice of the original assessment or of a notification that no tax is payable for the taxation year, and
 - (ii) the latest day on which a reassessment, additional assessment or assessment can be made under any predecessor of this clause for any previous taxation year.

19. Subsection 91 (4) of the said Act is repealed.

20.—(1) This Act, except as provided in subsections (2) to (20), comes into force on the day it receives Royal Assent.

Commence-
ment and
application

(2) Subsection 27 (8) of the said Act, as enacted by section 11 of this Act, and section 12 of this Act shall be deemed to have come into force on the 1st day of January, 1982, and apply with respect to taxation years of corporations ending after the 31st day of December, 1981.

Idem

(3) Section 9 shall be deemed to have come into force on the 1st day of January, 1985, and applies with respect to taxation years of corporations ending after the 31st day of December, 1984.

Idem

(4) Section 3 and subsection 4 (3) shall be deemed to have come into force on the 1st day of April, 1985, and apply with respect to taxation years of corporations ending after the 31st day of March, 1985.

Idem

(5) Subclause 1 (2) (d) (iv) of the said Act, other than sub-clause (B) thereof, as re-enacted by section 1 of this Act, shall be deemed to have come into force on the 23rd day of May, 1985, except as provided in subsections (10) and (12), and in the application thereof, the “other provision” referred to in sub-subclause (A) shall apply for the purposes of the application of subsection 13 (7) of the *Income Tax Act* (Canada) for the purposes of the said Act only with respect to property acquired by a corporation after the 22nd day of May, 1985, other than property acquired by the corporation before the 1st day of January, 1986 pursuant to a written agreement entered into by the corporation before the 23rd day of May, 1985.

Idem

R.S.C. 1952,
c. 148

- Idem (6) Sub-subclause 1 (2) (d) (iv) (B) of the said Act, as enacted by section 1 of this Act, shall be deemed to have come into force on the 24th day of May, 1985.
- Idem (7) Section 6 shall be deemed to have come into force on the 20th day of July, 1985, and applies with respect to taxation years of corporations ending after the 19th day of July, 1985.
- Idem (8) Section 14 shall be deemed to have come into force on the 1st day of November, 1985.
- Idem (9) Section 7 shall be deemed to have come into force on the 22nd day of November, 1985.
- Idem (10) The reference to subparagraph 66.1 (6) (b) (xi) of the *Income Tax Act* (Canada) in sub-subclause 1 (2) (d) (iv) (A) of the said Act, as enacted by section 1 of this Act, shall be deemed to have come into force on the 1st day of December, 1985, and applies with respect to expenditures made after the 30th day of November, 1985.
- Idem (11) Section 8 shall be deemed to have come into force on the 1st day of January, 1986, and applies with respect to taxation years of corporations ending after the 31st day of December, 1985.
- Idem R.S.C. 1952, c. 148 (12) The reference to subsection 96 (2.1) and paragraph 111 (1) (e) of the *Income Tax Act* (Canada) in sub-subclause 1 (2) (d) (iv) (A) of the said Act, as enacted by section 1 of this Act, section 10 of this Act, subsection 27 (9) of the said Act, as enacted by section 11 of this Act and subsections 18 (1), (2) and (3) of this Act shall be deemed to have come into force on the 26th day of February, 1986.
- Idem (13) Section 15 shall be deemed to have come into force on the 26th day of February, 1986, and applies with respect to liabilities incurred by corporations in taxation years commencing after the 25th day of February, 1986.
- Idem (14) Subsection 4 (1) of this Act and clause 18 (14) (ca) of the said Act, as enacted by subsection 4 (2) of this Act, shall be deemed to have come into force on the 1st day of March, 1986.
- Idem (15) Clauses 18 (14) (aa) and (ia) of the said Act, as enacted by subsection 4 (2) of this Act, and the application of subsections 66 (12.6) to (12.73) of the *Income Tax Act* (Canada) for the purposes of the said Act, as enacted by section 5 of this Act, shall be deemed to have come into force on the 1st day of March, 1986, and apply with respect to expenses incurred after the 28th day of February, 1986.

(16) The application of subsections 66 (16) and (17) of the *Income Tax Act* (Canada) for the purposes of the said Act, as enacted by section 5 of this Act, shall be deemed to have come into force on the 1st day of March, 1986, with respect to fiscal periods of partnerships ending after the 28th day of February, 1986. Idem
R.S.C. 1952,
c. 148

(17) Section 19 shall be deemed to have come into force on the 15th day of May, 1986. Idem

(18) Sections 2 and 17 shall be deemed to have come into force on the 1st day of January, 1987. Idem

(19) Subsection 13 (2) shall be deemed to have come into force on the 1st day of January, 1987, and applies with respect to taxation years of corporations ending after the 31st day of December, 1986. Idem

(20) Subsections 13 (1) and 18 (4), (5) and (6) come into force on the day this Act receives Royal Assent and apply with respect to reassessments and assessments for taxation years of corporations commencing after the day this Act receives Royal Assent. Idem

21. The short title of this Act is the *Corporations Tax Amendment Act, 1988*. Short title

Bill 85

An Act to amend the Mining Tax Act

The Hon. B. Grandmaître

Minister of Revenue



1st Reading December 17th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

GENERAL. The Bill implements the proposals contained in the Treasurer's Budget of May 20th, 1987 and in addition provides for certain amendments to the administrative provisions of the *Mining Tax Act*, including the prorating of deductions.

SECTION 1. The amendment to clause 1 (1) (k) of the Act deletes the reference in the definition of "processing" to the manufacturing of non-metallic mineral substances being carried on in Canada.

SECTION 2.—Subsection 1. The addition of subsections 3 (5a) to (5f) implements the Budget proposal for a tax holiday of three years for new mines and for major expansions of existing mines coming into existence or occurring after May 20th, 1987. The profit from the new mine or major expansion is excluded from the determination of the operator's profit for the taxation year. In determining the profit from the new mine or major expansion, the operator must take into account all of the expenses and the related processing allowance.

Subsection 2. New clauses 3 (6) (d) and (e) of the Act require the reduction of the allowance for depreciation where the operator's taxation year is less than 365 days and where processing and transportation assets are situated or used outside Canada.

Subsection 3. New clause 3 (10) (e) of the Act ensures that the undepreciated capital cost of the operator's assets is reduced by any disallowed portion of depreciation under clause 3 (6) (e) and subsection (15) of the Act.

Subsection 4. New subsections 3 (15) and (16) require the reduction of processing expenses and the allowance for depreciation where mineral substances mined in Canada outside Ontario are fed into an Ontario processing plant and where mineral substances from Ontario mines not owned by the operator and mineral substances from non-Ontario mines are fed into a processing plant in Canada outside Ontario. It also clarifies that certain expenses that are related to non-Canadian processing plants are not deductible.

SECTION 3.—Subsection 1. The effect of the re-enactment of clause 4 (3) (b) of the Act is to make it clear that the operator of a specified uranium undertaking is eligible for the same allowance for depreciation on mining assets acquired after April 9th, 1974 as other operators.

Subsection 2. New subsection 4 (6) incorporates in the Act the disallowance of processing costs incurred outside Canada for a specified uranium undertaking now found in the regulations made under the Act.

SECTION 4. The amendments to section 9 of the Act reduce the time limit for making reassessments, additional assessments and assessments of tax from six to four years after the date of an original tax assessment and provide a transitional rule to ensure that later years do not become statute-barred before prior years.

SECTION 5. Section 17 of the Act is repealed as redundant by reason of the authority of the Lieutenant Governor in Council to remit tax in certain circumstances under the *Ministry of Revenue Act* and the authority of the Minister under section 15 of the Act to accept lesser amounts of tax in special circumstances.

SECTION 6. Authorizes regulations to be made to determine whether a mine project is a new mine or a major expansion of an existing mine for the purposes of the new subsection 3 (5a) and clause 3 (6) (c).

Bill 85

1987

An Act to amend the Mining Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (1) (k) of the *Mining Tax Act*, being chapter 269 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1987, chapter 11, section 1, is amended by striking out “if the manufacturing is carried on in Canada” in the fifth and sixth lines.

2.—(1) Section 3 of the said Act, as amended by the Statutes of Ontario, 1987, chapter 11, section 3, is further amended by adding thereto the following subsections:

(5a) If the operator so elects, the operator’s profit for the taxation year shall not include the operator’s profit, if any, as determined under subsection (5b), earned during that portion of the exempt period that falls within the taxation year,

Exemption
re: new mine
or major
expansion of
existing mine

- (a) from a new mine that has come into existence after the 20th day of May, 1987; or
- (b) from a major expansion of an existing mine that has occurred after the 20th day of May, 1987,

in which the operator has an interest, upon the filing of a declaration in the prescribed form with the operator’s return under subsection 7 (1) for the first taxation year in which a portion of the exempt period occurs.

(5b) For the purposes of subsection (5a), the operator’s profit shall be determined under subsection (5) as if the operator’s interest in the new mine that has come into existence or in the major expansion of the existing mine that has occurred was the only mine in which the operator had an interest during the taxation year provided that,

Determina-
tion of
profit

- (a) the allowance for depreciation to be deducted under clause (5) (h) shall be the amount equal to the

aggregate of the maximum amounts calculated in accordance with clauses (6) (a) and (b), subject to clauses (6) (d) and (e) and subsection (15); and

- (b) no amount shall be deducted in respect of the allowance for depreciation of the operator calculated under clause (6) (c),

in respect of depreciable property that can reasonably be considered to be used in connection with the new mine or with the major expansion of the existing mine.

Prorating
depreciation
allowance

(5c) Where the number of days in the operator's taxation year exceeds the number of days in the portion of the exempt period that falls within that taxation year, the amount of the operator's allowance for depreciation required to be deducted in determining the operator's profit under subsection (5b) shall be equal to that proportion of the allowance for depreciation determined under clause (5b) (a) that the number of days during the portion of the exempt period in the taxation year is of 365.

Exempt
period

(5d) In subsections (5a), (5c) and (5f), "exempt period" means, in respect of a new mine that has come into existence or a major expansion of an existing mine that has occurred, the thirty-six month period commencing with the month during which the new mine or the major expansion came into production in reasonable commercial quantities.

Commence-
ment of
production

(5e) For the purpose of subsection (5d), a new mine or a major expansion of an existing mine shall be deemed to have come into production in reasonable commercial quantities,

- (a) in the case of a new mine, on the first day of the month when the operator thereof first becomes entitled to receive proceeds from the output of the mine; and
- (b) in the case of a major expansion of an existing mine, on the first day that the rate of production of mineral substances from the expanded mine exceeded by at least 30 per cent the average daily rate of production of mineral substances from the mine during each of the five calendar years ending immediately before the calendar year in which the first outlay was made to expand the mine.

Loss

(5f) Where a determination under subsection (5b) produces a loss for a new mine or a major expansion with respect to the portion of the exempt period within the taxation year, sub-

sections (5a) to (5e) do not apply for that new mine or major expansion for the taxation year.

(2) Subsection 3 (6) of the said Act, as re-enacted by the Statutes of Ontario, 1987, chapter 11, section 3, is amended by striking out “and” at the end of clause (b) and by adding thereto the following clauses:

- (d) notwithstanding clauses (a), (b) and (e), subsection (15) and clause 4 (3) (b), where the operator’s taxation year is less than 365 days, an amount not exceeding that proportion of the aggregate of the amounts determined under clauses (a) and (e), subsection (15) and clause 4 (3) (b) in respect of processing and transportation assets and clause (b) in respect of mining assets that the number of days in the taxation year is of 365; and
- (e) notwithstanding clause (a), where processing assets are situated outside Canada or assets for transporting processed mineral substances are used outside Canada, an amount not exceeding that proportion of the amount determined under clause (a),
 - (i) in respect of processing assets, that the value of mineral substances mined in Ontario is to the total value of mineral substances fed into the processing plant situated outside Canada, or
 - (ii) in respect of assets used for transporting processed mineral substances, that the value of processed product derived from output is of the total value of processed product transported by those assets.

(3) Subsection 3 (10) of the said Act, as re-enacted by the Statutes of Ontario, 1987, chapter 11, section 3, is amended by striking out “and” at the end of clause (c), adding “and” at the end of clause (d) and by adding thereto the following clause:

- (e) the total of the amounts not deductible under this Act as a result of the application of clause (6) (e) or subsection (15) in respect of an allowance for depreciation.

(4) Section 3 of the said Act, as amended by the Statutes of Ontario, 1987, chapter 11, section 3, is further amended by adding thereto the following subsections:

Reduction in
processing
costs

(15) For the purposes of clauses (5) (b), (c), (d), (e), (i) and (j), (5b) (a) and (6) (a), where a processing plant owned and operated by the operator is,

- (a) located in Ontario, the amount of the operator's expenses, outlays or allowances relating to processing shall be reduced by the proportion that the value of the input of mineral substances mined in Canada outside Ontario is of the total value of the input of mineral substances to the processing plant; or
- (b) located in Canada outside Ontario, the amount of the operator's expenses, outlays or allowances shall be reduced by the proportion that the aggregate of the value of input of,
 - (i) mineral substances from Ontario mines, other than mineral substances from the operator's Ontario mines, and
 - (ii) mineral substances from mines located outside Ontario, whether from the operator's mines or not,

is of the total value of the input of mineral substances to the processing plant.

Processing
plant located
outside
Canada

(16) No deduction shall be made under clauses (5) (c), (d), (e) and (f) for expenses and outlays related to processing at an operator's processing plant located outside Canada.

3.—(1) Clause 4 (3) (b) of the said Act, as enacted by the Statutes of Ontario, 1987, chapter 11, section 4, is repealed and the following substituted therefor:

- (b) the deduction allowed under clause 3 (5) (h) in respect of processing assets situated in Canada, assets for transporting processed mineral substances to market from the point at which processing in Canada is completed and mining assets acquired prior to the 10th day of April, 1974, attributable to the operation of a specified uranium undertaking, shall not be,
 - (i) greater than the lesser of 15 per cent of the capital cost and the undepreciated capital cost of the assets as of the end of the taxation year (before making any deduction under clause

3 (5) (h) in respect of the assets for the taxation year), and

- (ii) less than the lesser of 5 per cent of the capital cost of the assets as of the end of the taxation year and the undepreciated capital cost of the assets as of the end of the taxation year (before making any deduction under clause 3 (5) (h) in respect of the assets for the taxation year); and

(2) Section 4 of the said Act, as amended by the Statutes of Ontario, 1987, chapter 11, section 4, is further amended by adding thereto the following subsection:

(6) Notwithstanding subsection 3 (5), where mineral substances are transported outside Canada to be processed by or on behalf of the operator, no deduction shall be made for expenses and outlays incurred outside Canada relating to the processing of the operator's output that is attributable to a specified uranium undertaking in respect of a taxation year ending after the 9th day of April, 1979.

Processing
expenses and
outlays
incurred
outside
Canada

4.—(1) Subclause 9 (1) (a) (iv) of the said Act, as enacted by the Statutes of Ontario, 1987, chapter 11, section 9, is repealed and the following substituted therefor:

- (iv) has filed with the Minister a waiver in the prescribed form on or before the later of,
 - (A) the expiry of a four-year period commencing on the day of mailing of the notice of an original assessment, and
 - (B) the latest day such a waiver could be filed under this Act for any previous taxation year; and

(2) Clause 9 (1) (b) of the said Act, as enacted by the Statutes of Ontario, 1987, chapter 11, section 9, is repealed and the following substituted therefor:

- (b) in any other case, on or before the later of,

- (i) the expiry of a four-year period commencing on the day of mailing of the original notice of assessment, and
- (ii) the latest day on which a reassessment, additional assessment or assessment can be made under any predecessor of this clause for any previous taxation year,

5. Section 17 of the said Act is repealed.

6. Clause 26 (1) (g) of the said Act, as re-enacted by the Statutes of Ontario, 1987, chapter 11, section 22, is repealed and the following substituted therefor:

- (g) prescribing the manner of determining the matters to be taken into account in determining whether there is a mine project that is a new mine or a major expansion of an existing mine for the purposes of subsection 3 (5a) and clause 3 (6) (c) and the time at which a mine project is completed for the purposes of clause 3 (6) (c).

Commence-
ment

7.—(1) Except as provided in subsections (2) to (4), this Act comes into force on the day it receives Royal Assent.

Idem

(2) Subsection 2 (1) and section 6 shall be deemed to have come into force on the 21st day of May, 1987, and apply in respect of taxation years ending after the 20th day of May, 1987.

Idem

(3) Section 1, subsections 2 (2), (3) and (4) and section 3 shall be deemed to have come into force on the 1st day of April, 1986, and apply in respect of taxation years ending after the 31st day of March, 1986.

Idem

(4) Section 4 comes into force on the day this Act receives Royal Assent and applies to assessments, reassessments and additional assessments for taxation years of operators commencing after the day this Act receives Royal Assent.

Short title

8. The short title of this Act is the *Mining Tax Amendment Act, 1987*.

Bill 85

(Chapter 43
Statutes of Ontario, 1988)

An Act to amend the Mining Tax Act

The Hon. B. Grandmaître
Minister of Revenue



<i>1st Reading</i>	December 17th, 1987
<i>2nd Reading</i>	June 22nd, 1988
<i>3rd Reading</i>	June 29th, 1988
<i>Royal Assent</i>	June 29th, 1988

Bill 85

1987

An Act to amend the Mining Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (1) (k) of the *Mining Tax Act*, being chapter 269 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1987, chapter 11, section 1, is amended by striking out “if the manufacturing is carried on in Canada” in the fifth and sixth lines.

2.—(1) Section 3 of the said Act, as amended by the Statutes of Ontario, 1987, chapter 11, section 3, is further amended by adding thereto the following subsections:

(5a) If the operator so elects, the operator's profit for the taxation year shall not include the operator's profit, if any, as determined under subsection (5b), earned during that portion of the exempt period that falls within the taxation year,

Exemption
re: new mine
or major
expansion of
existing mine

- (a) from a new mine that has come into existence after the 20th day of May, 1987; or
- (b) from a major expansion of an existing mine that has occurred after the 20th day of May, 1987,

in which the operator has an interest, upon the filing of a declaration in the prescribed form with the operator's return under subsection 7 (1) for the first taxation year in which a portion of the exempt period occurs.

(5b) For the purposes of subsection (5a), the operator's profit shall be determined under subsection (5) as if the operator's interest in the new mine that has come into existence or in the major expansion of the existing mine that has occurred was the only mine in which the operator had an interest during the taxation year provided that,

Determi-
nation of
profit

- (a) the allowance for depreciation to be deducted under clause (5) (h) shall be the amount equal to the

aggregate of the maximum amounts calculated in accordance with clauses (6) (a) and (b), subject to clauses (6) (d) and (e) and subsection (15); and

- (b) no amount shall be deducted in respect of the allowance for depreciation of the operator calculated under clause (6) (c),

in respect of depreciable property that can reasonably be considered to be used in connection with the new mine or with the major expansion of the existing mine.

Prorating
depreciation
allowance

(5c) Where the number of days in the operator's taxation year exceeds the number of days in the portion of the exempt period that falls within that taxation year, the amount of the operator's allowance for depreciation required to be deducted in determining the operator's profit under subsection (5b) shall be equal to that proportion of the allowance for depreciation determined under clause (5b) (a) that the number of days during the portion of the exempt period in the taxation year is of 365.

Exempt
period

(5d) In subsections (5a), (5c) and (5f), "exempt period" means, in respect of a new mine that has come into existence or a major expansion of an existing mine that has occurred, the thirty-six month period commencing with the month during which the new mine or the major expansion came into production in reasonable commercial quantities.

Commence-
ment of
production

(5e) For the purpose of subsection (5d), a new mine or a major expansion of an existing mine shall be deemed to have come into production in reasonable commercial quantities,

- (a) in the case of a new mine, on the first day of the month when the operator thereof first becomes entitled to receive proceeds from the output of the mine; and
- (b) in the case of a major expansion of an existing mine, on the first day that the rate of production of mineral substances from the expanded mine exceeded by at least 30 per cent the average daily rate of production of mineral substances from the mine during each of the five calendar years ending immediately before the calendar year in which the first outlay was made to expand the mine.

Loss

(5f) Where a determination under subsection (5b) produces a loss for a new mine or a major expansion with respect to the portion of the exempt period within the taxation year, sub-

sections (5a) to (5e) do not apply for that new mine or major expansion for the taxation year.

(2) Subsection 3 (6) of the said Act, as re-enacted by the Statutes of Ontario, 1987, chapter 11, section 3, is amended by striking out “and” at the end of clause (b) and by adding thereto the following clauses:

- (d) notwithstanding clauses (a), (b) and (e), subsection (15) and clause 4 (3) (b), where the operator’s taxation year is less than 365 days, an amount not exceeding that proportion of the aggregate of the amounts determined under clauses (a) and (e), subsection (15) and clause 4 (3) (b) in respect of processing and transportation assets and clause (b) in respect of mining assets that the number of days in the taxation year is of 365; and
- (e) notwithstanding clause (a), where processing assets are situated outside Canada or assets for transporting processed mineral substances are used outside Canada, an amount not exceeding that proportion of the amount determined under clause (a),
 - (i) in respect of processing assets, that the value of mineral substances mined in Ontario is to the total value of mineral substances fed into the processing plant situated outside Canada, or
 - (ii) in respect of assets used for transporting processed mineral substances, that the value of processed product derived from output is of the total value of processed product transported by those assets.

(3) Subsection 3 (10) of the said Act, as re-enacted by the Statutes of Ontario, 1987, chapter 11, section 3, is amended by striking out “and” at the end of clause (c), adding “and” at the end of clause (d) and by adding thereto the following clause:

- (e) the total of the amounts not deductible under this Act as a result of the application of clause (6) (e) or subsection (15) in respect of an allowance for depreciation.

(4) Section 3 of the said Act, as amended by the Statutes of Ontario, 1987, chapter 11, section 3, is further amended by adding thereto the following subsections:

Reduction in
processing
costs

(15) For the purposes of clauses (5) (b), (c), (d), (e), (i) and (j), (5b) (a) and (6) (a), where a processing plant owned and operated by the operator is,

- (a) located in Ontario, the amount of the operator's expenses, outlays or allowances relating to processing shall be reduced by the proportion that the value of the input of mineral substances mined in Canada outside Ontario is of the total value of the input of mineral substances to the processing plant; or
- (b) located in Canada outside Ontario, the amount of the operator's expenses, outlays or allowances shall be reduced by the proportion that the aggregate of the value of input of,
 - (i) mineral substances from Ontario mines, other than mineral substances from the operator's Ontario mines, and
 - (ii) mineral substances from mines located outside Ontario, whether from the operator's mines or not,

is of the total value of the input of mineral substances to the processing plant.

Processing
plant located
outside
Canada

(16) No deduction shall be made under clauses (5) (c), (d), (e) and (f) for expenses and outlays related to processing at an operator's processing plant located outside Canada.

3.—(1) Clause 4 (3) (b) of the said Act, as enacted by the Statutes of Ontario, 1987, chapter 11, section 4, is repealed and the following substituted therefor:

- (b) the deduction allowed under clause 3 (5) (h) in respect of processing assets situated in Canada, assets for transporting processed mineral substances to market from the point at which processing in Canada is completed and mining assets acquired prior to the 10th day of April, 1974, attributable to the operation of a specified uranium undertaking, shall not be,
 - (i) greater than the lesser of 15 per cent of the capital cost and the undepreciated capital cost of the assets as of the end of the taxation year (before making any deduction under clause

3 (5) (h) in respect of the assets for the taxation year), and

- (ii) less than the lesser of 5 per cent of the capital cost of the assets as of the end of the taxation year and the undepreciated capital cost of the assets as of the end of the taxation year (before making any deduction under clause 3 (5) (h) in respect of the assets for the taxation year); and

(2) Section 4 of the said Act, as amended by the Statutes of Ontario, 1987, chapter 11, section 4, is further amended by adding thereto the following subsection:

(6) Notwithstanding subsection 3 (5), where mineral substances are transported outside Canada to be processed by or on behalf of the operator, no deduction shall be made for expenses and outlays incurred outside Canada relating to the processing of the operator's output that is attributable to a specified uranium undertaking in respect of a taxation year ending after the 9th day of April, 1979.

Processing
expenses and
outlays
incurred
outside
Canada

4.—(1) Subclause 9 (1) (a) (iv) of the said Act, as enacted by the Statutes of Ontario, 1987, chapter 11, section 9, is repealed and the following substituted therefor:

- (iv) has filed with the Minister a waiver in the prescribed form on or before the later of,
 - (A) the expiry of a four-year period commencing on the day of mailing of the notice of an original assessment, and
 - (B) the latest day such a waiver could be filed under this Act for any previous taxation year; and

(2) Clause 9 (1) (b) of the said Act, as enacted by the Statutes of Ontario, 1987, chapter 11, section 9, is repealed and the following substituted therefor:

- (b) in any other case, on or before the later of,

- (i) the expiry of a four-year period commencing on the day of mailing of the original notice of assessment, and
- (ii) the latest day on which a reassessment, additional assessment or assessment can be made under any predecessor of this clause for any previous taxation year,

.

5. Section 17 of the said Act is repealed.

6. Clause 26 (1) (g) of the said Act, as re-enacted by the Statutes of Ontario, 1987, chapter 11, section 22, is repealed and the following substituted therefor:

- (g) prescribing the manner of determining and the matters to be taken into account in determining whether there is a mine project that is a new mine or a major expansion of an existing mine for the purposes of subsection 3 (5a) and clause 3 (6) (c) and the time at which a mine project is completed for the purposes of clause 3 (6) (c).

Commence-
ment

7.—(1) Except as provided in subsections (2) to (4), this Act comes into force on the day it receives Royal Assent.

Idem

(2) Subsection 2 (1) and section 6 shall be deemed to have come into force on the 21st day of May, 1987, and apply in respect of taxation years ending after the 20th day of May, 1987.

Idem

(3) Section 1, subsections 2 (2), (3) and (4) and section 3 shall be deemed to have come into force on the 1st day of April, 1986, and apply in respect of taxation years ending after the 31st day of March, 1986.

Idem

(4) Section 4 comes into force on the day this Act receives Royal Assent and applies to assessments, reassessments and additional assessments for taxation years of operators commencing after the day this Act receives Royal Assent.

Short title

8. The short title of this Act is the *Mining Tax Amendment Act, 1988*.

Bill 86

An Act to amend the Highway Traffic Act

The Hon. E. Fulton
Minister of Transportation



1st Reading December 17th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The Bill brings the concept of "Commercial Vehicle Operator's Registration" or "CVOR" under the *Highway Traffic Act*. This concept is tied into the proposed *Truck Transportation Act, 1987*. In addition, amendments incorporating *National Safety Code* provisions are being added.

SECTION 1. Subsection 7 (6) of the Act authorizes the Minister to refuse to issue or validate vehicle permits for vehicles covered by specified Acts unless the owner of the vehicle has an operating licence under a specified Act. The proposed *Truck Transportation Act, 1987* is being added to the list of specified Acts.

SECTION 2. The proposed sections provide for the issuance of CVOR certificates. The driving of commercial motor vehicles is, basically, prohibited unless the operator has a CVOR certificate. The carrying of specified documents is mandated.

SECTION 3. Section 21 of the Act prohibits, among other things, possessing more than one driver's licence issued under the Act. The exception set out in the new clause 21 (2) (a) is currently in subsection 21 (2) of the Act. The new clause 21 (2) (b) is a new concept. Subsection 21 (3) is new.

SECTION 4. Section 30 of the Act was recast to simplify the structure, clarify the intent and to incorporate references to CVOR certificates. Some changes are necessary to reflect the existence of the proposed CVOR system.

SECTION 5.—Subsection 1. The subsections are re-enacted to update the reference to the new Photo Card licences and to clarify intent.

Subsection 2. The amendment expands the definition of "driver's licence" to clarify that an out-of-province licence may be suspended where a driver fails a breathalyzer test.

SECTIONS 6, 8 and 14. Updating the Act to anticipate the enactment of the proposed *Truck Transportation Act, 1987*.

SECTION 7. The new section 90a of the Act requires truck drivers to inspect their vehicles and trailers and to report any problems to the business operator. A truck or trailer that does not meet the prescribed standards shall not be driven or towed, as the case may be.

SECTION 9. The new section 165a of the Act sets out the frame work to control the number of hours that truck drivers or bus drivers may work in any prescribed period.

SECTION 10. Section 166 of the Act provides that a motor vehicle owner is jointly liable with the driver of the vehicle for damage caused through negligence. The added provision imposes a similar liability on the operator of a commercial motor vehicle who may not be the owner of the vehicle.

SECTIONS 11 and 12. Complementary to section 2 of the Bill.

SECTION 13. The amendment corrects an internal reference and is complementary to section 4 of the Bill.

SECTION 15. The new section 194b permits Ministry officers to check records that are required to be kept.

Bill 86

1987

An Act to amend the Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 7 (6) of the *Highway Traffic Act*, being chapter 198 of the Revised Statutes of Ontario, 1980, is amended by striking out “or” at the end of clause (a), by adding “or” at the end of clause (b) and by adding thereto the following clause:

- (c) as a public truck within the meaning of the *Truck Transportation Act, 1987*, c. ...

.

2. The said Act is amended by adding thereto the following sections:

15a.—(1) In this section and in sections 15d and 15e, Definitions

“commercial motor vehicle” does not include,

- (a) an ambulance, a fire apparatus, a hearse, a casket wagon, a mobile crane, a motor home, a vehicle commonly known as a tow truck or a commercial motor vehicle, other than a bus, having a registered gross weight of not more than 4500 kilograms,
- (b) a commercial motor vehicle leased for no longer than thirty days by an individual for the transportation of goods kept for that individual’s personal use or the gratuitous carriage of passengers,
- (c) a commercial motor vehicle operated under a permit and number plates issued under a regulation made under clause 7 (14) (f) or (fa) that is not transporting passengers or goods,

(d) a commercial motor vehicle operated under the authority of an In-Transit permit, and

(e) a bus that is used for personal purposes without compensation;

“CVOR certificate” means a Commercial Vehicle Operator’s Registration Certificate issued under this Act;

“operator” means the person responsible for the operation of a commercial motor vehicle including the conduct of the driver of, and the carriage of goods or passengers, if any, in the vehicle or combination of vehicles;

1987, c. ... “owner-driver authority” means an owner-driver authority issued under the *Truck Transportation Act, 1987*;

“single-source authority” means a single-source authority issued under the *Truck Transportation Act, 1987*.

CVOR
certificate
required

(2) No person shall drive or operate a commercial motor vehicle on a highway unless the operator is the holder of a CVOR certificate that is not under suspension.

Documents
to be carried

(3) Every driver of a commercial motor vehicle shall carry the original or a copy of,

- (a) the CVOR certificate issued to the operator of the vehicle;
- (b) the lease of the vehicle meeting the requirements of subsection (5) if it is a leased vehicle; or
- (c) the applicable contract or the notice thereof, as filed with the Ministry, meeting the requirements of subsection (5) if the vehicle is operated under an owner-driver authority or single-source authority,

and where the operator has been issued fleet limitation certificates, a fleet limitation certificate.

Documents
to be
surrendered

(4) Every driver of a commercial motor vehicle shall, upon the demand of a police officer, surrender for inspection the documents that are required under subsection (3) to be carried.

Requirements
for lease or
contract

(5) Every lease, contract or notice of contract carried under subsection (3) shall clearly identify the vehicle involved, the parties thereto and their addresses, the operator of the vehicle and the operator’s CVOR certificate.

(6) A commercial motor vehicle operated under the authority of an owner-driver authority or single-source authority shall be deemed to be operated by the person or partnership that contracted with the holder of the licence.

Deemed operator

(7) For a commercial motor vehicle, for which an Ontario permit is not in force and which bears number plates from and is registered in another province or state, the motor vehicle permit may be substituted for a CVOR certificate for the purposes of subsections (2) and (3) if the operator of the commercial motor vehicle is not the holder of a CVOR certificate.

Substitution for CVOR certificate

15b.—(1) The Minister shall issue a CVOR certificate to every person who applies therefor in the prescribed form and meets the requirements of this Act and the regulations.

Certificates issued by Minister

(2) The Minister may refuse to issue a CVOR certificate to a partnership or corporation where a partner or officer thereof is the holder of, or a partner or officer of a holder of, a CVOR certificate that is under suspension or the subject of a fleet restriction under subsection 30 (1) or (2).

Refusal to issue

(3) The Minister may refuse to issue a CVOR certificate to an individual where the individual is a partner of a partnership or officer of a corporation that is the holder of a CVOR certificate that is under suspension or the subject of a fleet restriction under subsection 30 (1) or (2).

Idem

(4) No person, alone or in partnership, is entitled to hold more than one CVOR certificate.

One certificate only

15c. Every corporate holder of a CVOR certificate shall notify the Minister in writing, within fifteen days after any change in the name, address or persons constituting the officers of the corporation, of the change made.

Changes

15d. In the absence of evidence to the contrary, where there is no CVOR certificate, lease or contract applicable to a commercial motor vehicle, the holder of the plate portion of the permit for the vehicle shall be deemed to be the operator for the purposes of sections 15c and 15e.

Person deemed to be operator

15e.—(1) Every person who gives up possession of a commercial motor vehicle under a lease or contract shall retain a copy of the lease or contract in his place of business for a period of one year after the termination of the lease or contract.

Retaining lease or contract

Where
contravention
of
subs. 15a (2)
or 30 (3e)

(2) A police officer who has reason to believe that a commercial motor vehicle is being operated in contravention of subsection 15a (2) or 30 (3e) may,

(a) detain the vehicle at any location that is reasonable in the circumstances; and

(b) seize the permits and number plates for the vehicle,

until the vehicle can be moved without a contravention of this Act occurring.

Permit
suspended

(3) Every permit seized under subsection (2) shall be deemed to be under suspension for the purposes of section 33 while it is in the custody of the officer seizing it.

Lien

(4) The costs incurred in detaining a vehicle under subsection (2) are a lien on the vehicle, which may be enforced in the manner provided by section 52 of the *Mechanics' Lien Act*.

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c. 261

Court
application

(5) The person entitled to possession of a vehicle that is detained or the permits or plates of which are seized under subsection (2) may apply to the District Court for an order that the vehicle be released or the permits and plates returned, as the case may be.

Security

(6) On an application being made under subsection (5), the Court may make the order applied for on condition that a security, for the payment of any fine imposed, in such amount as is determined by the Court but not exceeding \$5,000 be deposited with the Court.

Return of
security

(7) Every security deposited under subsection (6) shall be returned,

(a) upon a final acquittal under all charges arising in connection with the seizure or detention;

(b) where a charge is not laid within six months after the seizure or detention, on the expiration of the six month period; or

(c) upon a conviction arising in connection with the seizure or detention, after withholding the amount of the fine.

Offence

15f.—(1) Every person who contravenes subsection 15a (3) or (4), section 15c or 15e or a regulation made under

section 15g is guilty of an offence and on conviction is liable to a fine of not more than \$500.

(2) Every person who contravenes subsection 15a (2) is ^{Idem} guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

15g. The Lieutenant Governor in Council may make ^{Regulations} regulations,

- (a) prescribing forms;
- (b) prescribing fees for the replacement of CVOR certificates;
- (c) classifying persons and vehicles and exempting any class of person or vehicle from any provision of section 15a and prescribing conditions for any such exemption;
- (d) prescribing the qualifications required to obtain and to hold CVOR certificates and authorizing the Minister to waive such qualifications as are specified in the regulations under the circumstances prescribed therein;
- (e) providing for the suspension or cancellation of CVOR certificates where the prescribed qualifications or conditions are not maintained;
- (f) respecting documents and information to be filed with or supplied to the Ministry prior to the issuance of CVOR certificates or as a condition of retention thereof by the holders of CVOR certificates;
- (g) requiring the attendance of certificate holders to show why a certificate should not be cancelled or suspended.

3. Subsection 21 (2) of the said Act is repealed and the following substituted therefor:

- (2) Notwithstanding clause (1) (e), a person may hold a ^{Second driver's licence permitted} second driver's licence if the second licence is,
- (a) issued solely to permit the licensee to obtain experience in the driving of a motorcycle for the purpose

of qualifying for a driver's licence that authorizes him or her to drive a motorcycle; or

- (b) required by any other province or territory of Canada or any state of the United States of America and has been issued in compliance with the law of that province, territory or state.

Definition

(3) For the purposes of this section, "driver's licence" includes a licence issued by any other province or territory of Canada or by any state of the United States of America.

4.—(1) Subsections 30 (1), (2) and (3) of the said Act are repealed and the following substituted therefor:

Registrar
may suspend,
cancel
licence, etc.

(1) The Registrar may suspend or cancel,

- (a) the plate portion of a permit as defined in Part II;
- (b) a driver's licence; or
- (c) a CVOR certificate,

on the grounds of,

- (d) misconduct for which the holder is responsible, directly or indirectly, related to the operation or driving of a motor vehicle;
- (e) conviction of the holder for an offence referred to in subsection 184 (1) or (1a); or
- (f) any other sufficient reason not referred to in clause (d) or (e).

Restriction

(2) As an alternative to a suspension or cancellation under subsection (1), the Registrar may restrict the number of commercial motor vehicles that may be operated by a holder of a CVOR certificate during such period as the Registrar stipulates.

New licence,
etc., not to
be issued

(3) A person whose permit, licence or certificate is under suspension is not entitled to be issued a certificate, licence or plate portion of a permit, as the case may be.

Fleet
limitation
certificates

(3a) Where a restriction is imposed under subsection (2), the Registrar shall issue to the holder of the CVOR certificate fleet limitation certificates in a number equal to the number of vehicles permitted to be operated.

(3b) Every person whose permit for a motor vehicle is suspended or cancelled and who, while prohibited from having such a motor vehicle registered in his or her name, applies for or procures the issue or has possession of the plate portion of a permit for such a motor vehicle issued to him or her is guilty of an offence and on conviction is liable, Offence

- (a) to a fine of not less than \$40 and not more than \$200 where the vehicle is not a commercial motor vehicle; or
- (b) to a fine of not less than \$100 and not more than \$1,000 where the vehicle is a commercial motor vehicle,

or to imprisonment for a term of not more than thirty days, or to both a fine and imprisonment.

(3c) Every person whose licence is suspended or cancelled and who, while prohibited from driving a motor vehicle, applies for or procures the issue to or has possession of any portion of a licence other than a Photo Card portion issued to him or her is guilty of an offence and on conviction is liable to a fine of not less than \$40 and not more than \$200 and to imprisonment for a term of not more than thirty days. Idem

(3d) Every person whose CVOR certificate is suspended who applies for or procures the issue of a CVOR certificate to him or her is guilty of an offence and on conviction is liable, to a fine of not less than \$100 and not more than \$1,000 or to imprisonment for a term of not more than thirty days, or to both. Idem

(3e) Every person, Idem

- (a) in respect of whom a restriction is imposed under subsection (2) who operates a commercial motor vehicle in which a valid fleet limitation certificate is not carried; or
- (b) who operates a commercial motor vehicle without a permit or certificate or when his or her permit or certificate is under suspension,

is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

(3f) For the purposes of this section, “commercial motor vehicle” has the same meaning as defined in section 15a. Definition

(2) Subsection 30 (4) of the said Act is amended by inserting after "Act" in the second line "*the Truck Transportation Act, 1987*".

5.—(1) Subsections 30a (6), (10), (11) and (12) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 72, section 1, are repealed and the following substituted therefor:

Intent of
suspension

(10) The suspension of a licence under this section is intended to safeguard the licensee and the public and does not constitute an alternative to any proceeding or penalty arising from the same circumstances or around the same time.

Duty of
officer

(11) Every officer who asks for the surrender of a licence under this section shall keep a written record of the licence received with the name and address of the person and the date and time of the suspension and, at the time of receiving the licence, shall return the Photo Card portion of the licence, if the licence consists of a Photo Card and Licence Card, and provide the licensee with a written statement of the time from which the suspension takes effect, the length of the period during which the licence is suspended, and the place where the licence or Licence Card portion thereof may be recovered.

Removal of
vehicle

(12) If the motor vehicle of a person whose licence is suspended under this section is at a location from which, in the opinion of a police officer, it should be removed and there is no person available who may lawfully remove the vehicle, the officer may remove and store the vehicle or cause it to be removed and stored, in which case, the officer shall notify the person of the location of the storage.

Cost of
removal

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c. 261

(12a) Where a police officer obtains assistance for the removal and storage of a motor vehicle under this section, the costs incurred in moving and storing the vehicle are a lien on the vehicle that may be enforced under the *Mechanics' Lien Act* by the person who moved or stored the vehicle at the request of the officer.

(2) Clause 30a (13) (a) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 21, section 5, is amended by inserting after "licence" in the second line "and a driver's licence issued by any other jurisdiction".

6. Subsection 44 (15) of the said Act is amended by inserting after "*Public Vehicles Act*" in the fourth line "*the Truck Transportation Act, 1987*".

7. The said Act is further amended by adding thereto, in Part V, the following section:

90a.—(1) In this section, “commercial motor vehicle” and “operator” have the meaning prescribed under this section and not as set out in this Act. Definitions

(2) Every operator shall establish a system to periodically inspect, repair and maintain all commercial motor vehicles and trailers under the operator’s control that are operated on a highway. Regular maintenance

(3) Every operator shall inspect, repair and maintain or cause to be inspected, repaired and maintained all commercial motor vehicles and trailers under the operator’s control in accordance with the prescribed vehicle component performance standards and the operator’s system for periodic inspections. Idem

(4) Every operator shall instruct every driver of commercial motor vehicles under the operator’s control to conduct or cause to be conducted a prescribed inspection of the commercial motor vehicles and trailers to be driven or towed by the driver prior to the motor vehicles being driven or the trailers being towed on a highway. Inspection

(5) No driver shall drive a commercial motor vehicle or tow a trailer on a highway unless the prescribed inspection of the vehicle or trailer has been conducted or caused to be conducted by that driver. Idem

(6) Every driver who reasonably believes or suspects that the state, condition or components of a vehicle or trailer that driver is about to or is driving or towing, as the case may be, on a highway do not meet the prescribed standards shall report the belief or suspicion to the operator. Reporting defects

(7) No driver shall drive a vehicle or tow a trailer on a highway if the driver determines as a result of an inspection that the state, condition or components of the vehicle or trailer do not meet the prescribed standards. Driving defective vehicle prohibited

(8) No operator shall permit a commercial motor vehicle to be driven or a trailer to be towed on a highway if the operator has reason to believe that the state, condition or components of the vehicle or trailer do not meet the prescribed standards. Idem

(9) Every operator, owner and driver of a commercial motor vehicle shall maintain or cause to be maintained such books and records as are prescribed. Operator’s duty

(10) Every driver shall carry the inspection report in respect of the prescribed inspection at all times while in Driver to carry inspection report

charge of a commercial motor vehicle on a highway and shall surrender the report to any police officer or officer appointed for the purpose of carrying out the provisions of this Act or the regulations made under this Act on demand of the officer.

Definition (11) In this section, “prescribed” means prescribed by the regulations made under this section.

Regulations (12) The Lieutenant Governor in Council may make regulations,

- (a) respecting the driving or operation of commercial motor vehicles and trailers;
- (b) governing the method and requirements for inspecting vehicles referred to in clause (a);
- (c) prescribing books and records that shall be kept by operators, owners and drivers of commercial motor vehicles;
- (d) requiring the retention of prescribed books and records by operators, owners and drivers of commercial motor vehicles and prescribing the information to be contained and the entries to be recorded therein and the places where they shall be maintained;
- (e) prescribing inspection, repair and maintenance standards for commercial motor vehicles and trailers;
- (f) prescribing vehicle component performance standards for commercial motor vehicles and trailers;
- (g) exempting any person or class of persons or any vehicle or class of vehicles from any requirement in this section or any regulation made under this section and prescribing conditions for any such exemption;
- (h) defining “commercial motor vehicle” and “operator” for the purposes of this section;
- (i) prescribing anything that is referred to in this section as prescribed.

Adoption by
reference

(13) Any regulation made under subsection (12) may adopt by reference in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code

or standard, or any regulation made by the Government of Canada or the United States of America.

(14) Every operator or owner who contravenes any provision in this section or the regulations made under this section is guilty of an offence and on conviction is liable, Offence
—operator,
owner

(a) for a first offence, to a fine of not less than \$250 and not more than \$2,000; and

(b) for each subsequent offence, to a fine of not less than \$500 and not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

(15) Every driver who contravenes any provision in this section or the regulations made under this section is guilty of an offence and on conviction is liable, —driver

(a) for a first offence, to a fine of not less than \$100 and not more than \$500; and

(b) for each subsequent offence, to a fine of not less than \$250 and not more than \$500 or to imprisonment for a term of not more than six months, or to both.

(16) An offence referred to in subsection (14) or (15) committed more than five years after a previous conviction for any offence under this section or the regulations made under this section is not a subsequent offence for the purposes of clause (14) (b) or (15) (b). Subsequent
offence

8. Subsection 104 (5) of the said Act is amended by striking out “produced” in the fifth line and inserting in lieu thereof “surrendered” and by inserting after “Act” where it occurs the first time in the seventh line “the *Truck Transportation Act, 1987*”.

9. The said Act is further amended by adding thereto the following section:

165a.—(1) In this section, “commercial motor vehicle” and “operator” have the meaning prescribed under this section and not as set out in this Act. Definitions

(2) No person shall drive a commercial motor vehicle on a highway except in accordance with this section and the regulations made under this section. Driving
restrictions

- Daily log (3) Every driver shall maintain a daily log and shall carry it at all times while in charge of a commercial motor vehicle on the highway.
- Surrender of daily log (4) Every driver who is required under subsection (3) to carry a daily log shall surrender it to any police officer or officer appointed for the purpose of carrying out the provisions of this Act upon demand by the officer.
- One daily log only (5) No driver shall make or have more than one daily log that records the same time period or overlapping time periods.
- Operator's duty (6) No operator shall permit a person to drive a commercial motor vehicle on a highway except in accordance with this section or the regulations made under this section.
- Regulations (7) The Lieutenant Governor in Council may make regulations,
- (a) prescribing the books, logs and records that shall be kept by operators and drivers of commercial motor vehicles;
 - (b) requiring the retention of books, logs and records, the information to be contained and the entries to be recorded therein and the places where they shall be kept;
 - (c) prescribing hours of work, periods of rest and other requirements for the purpose of subsection (2), including prescribing different hours or periods for different types of work or driving;
 - (d) exempting any person or class of persons or any vehicle or class of vehicles from any requirement in this section or any regulation made under this section and prescribing conditions for any such exemption;
 - (e) defining "commercial motor vehicle" and "operator" for the purposes of this section.
- Offence (8) Every person who contravenes a provision of this section or a regulation made under this section is guilty of an offence and on conviction is liable,
- (a) for a first offence, to a fine of not less than \$250 and not more than \$2,000; and

- (b) for each subsequent offence, to a fine of not less than \$500 and not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

(9) An offence referred to in subsection (8) committed more than five years after a previous conviction for an offence under subsection (8) is not a subsequent offence for the purpose of clause (8) (b).

Time limit
for
subsequent
offence

10. Section 166 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 37, is further amended by adding thereto the following subsection:

(3) In addition to any liability of an owner incurred under subsection (1), the operator of a commercial motor vehicle, as defined in subsection 15a (1), is liable for loss or damage sustained by any person by reason of negligence in the operation of the commercial motor vehicle on a highway.

Liability of
operator of
commercial
motor vehicle

11.—(1) Subclause 179 (c) (iii) of the said Act is repealed and the following substituted therefor:

- (iii) a record of all licences, permits and CVOR certificates issued, suspended, revoked, cancelled or revived under this Act.

(2) Clause 179 (c) of the said Act is amended by striking out “and” at the end of subclause (v), by renumbering subclause (vi) as subclause (vii) and by adding thereto the following subclause:

- (vi) an operating record of every conviction of every CVOR certificate holder and the holder's agents and employees that is reported to the Registrar under section 184 and such other convictions, whether or not the certificate holder was the person convicted, as the Registrar considers useful for the purpose of the administration and enforcement of this Act, and

12. Section 181 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 15, section 12 and 1983, chapter 63, section 43, is further amended by adding thereto the following subsection:

Definition

(5) In this section, “owner” includes operator as defined in section 15a or as deemed in section 15d.

13. Subsection 190 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 63, section 46, is amended by striking out “subsection 30 (2) or (3)” in the fourth line and inserting in lieu thereof “subsection 30 (3b), (3c), (3d) or (3e)”.

14. Subsection 194a (1) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 13, section 17, is amended by inserting after “the” in the first line “*Truck Transportation Act, 1987*”, by inserting after “service” in the seventh line “on the operator of the vehicle as defined in subsection 15a (1) or” and by inserting after “unless” in the eighth line “in the case of the owner”.

15. The said Act is further amended by adding thereto the following section:

Inspection of
records

194b.—(1) An officer of the Ministry may, during normal business hours upon production of his or her designation as an officer, enter any place of business of a person required under this Act or the regulations to keep records for the purpose of inspecting those records.

Idem

(2) An officer of the Ministry, for the purpose of ensuring that the provisions of this Act and the regulations are being complied with, is authorized to inspect any records required to be kept under this Act or the regulations.

Copies

(3) An officer examining any records under this section may, on giving a receipt therefor, remove any record for the purpose of making copies thereof but the copying must be made quickly and the record promptly returned.

Idem

(4) Any copy made under subsection (3) and certified as a true copy by the person making it is admissible in evidence in any action, proceeding or prosecution as proof, in the absence of evidence to the contrary, of the record copied and its contents.

Obstruction
prohibited

(5) No person shall obstruct any officer from doing anything that he or she is authorized by this section to do or to withhold from the officer or conceal or destroy any record that the officer is authorized to examine or to copy.

Penalty

(6) Every person who contravenes subsection (5) is guilty of an offence and on conviction is liable to a fine of not less

than \$100 and not more than \$1,000 or to imprisonment for a term of not more than six months, or to both.

16. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

17. The short title of this Act is the *Highway Traffic Amendment Act, 1987*. Short title

Bill 86

(Chapter 44
Statutes of Ontario, 1988)

An Act to amend the Highway Traffic Act

The Hon. E. Fulton
Minister of Transportation

<i>1st Reading</i>	December 17th, 1987
<i>2nd Reading</i>	June 20th, 1988
<i>3rd Reading</i>	June 29th, 1988
<i>Royal Assent</i>	June 29th, 1988

Bill 86

1987

An Act to amend the Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 7 (6) of the *Highway Traffic Act*, being chapter 198 of the Revised Statutes of Ontario, 1980, is amended by striking out “or” at the end of clause (a), by adding “or” at the end of clause (b) and by adding thereto the following clause:

- (c) as a public truck within the meaning of the *Truck Transportation Act, 1988*, 1988, c. ...

2. The said Act is amended by adding thereto the following sections:

15a.—(1) In this section and in sections 15d and 15e, Definitions

“commercial motor vehicle” does not include,

- (a) an ambulance, a fire apparatus, a hearse, a casket wagon, a mobile crane, a motor home, a vehicle commonly known as a tow truck or a commercial motor vehicle, other than a bus, having a registered gross weight of not more than 4500 kilograms,
- (b) a commercial motor vehicle leased for no longer than thirty days by an individual for the transportation of goods kept for that individual’s personal use or the gratuitous carriage of passengers,
- (c) a commercial motor vehicle operated under a permit and number plates issued under a regulation made under clause 7 (14) (f) or (fa) that is not transporting passengers or goods,

(d) a commercial motor vehicle operated under the authority of an In-Transit permit, and

(e) a bus that is used for personal purposes without compensation;

“CVOR certificate” means a Commercial Vehicle Operator’s Registration Certificate issued under this Act;

“operator” means the person responsible for the operation of a commercial motor vehicle including the conduct of the driver of, and the carriage of goods or passengers, if any, in the vehicle or combination of vehicles;

1988, c. ... “owner-driver authority” means an owner-driver authority issued under the *Truck Transportation Act, 1988*;

“single-source authority” means a single-source authority issued under the *Truck Transportation Act, 1988*.

CVOR
certificate
required

(2) No person shall drive or operate a commercial motor vehicle on a highway unless the operator is the holder of a CVOR certificate that is not under suspension.

Documents
to be carried

(3) Every driver of a commercial motor vehicle shall carry the original or a copy of,

(a) the CVOR certificate issued to the operator of the vehicle;

(b) the lease of the vehicle meeting the requirements of subsection (5) if it is a leased vehicle; or

(c) the applicable contract or the notice thereof, as filed with the Ministry, meeting the requirements of subsection (5) if the vehicle is operated under an owner-driver authority or single-source authority,

and where the operator has been issued fleet limitation certificates, a fleet limitation certificate.

Documents
to be
surrendered

(4) Every driver of a commercial motor vehicle shall, upon the demand of a police officer, surrender for inspection the documents that are required under subsection (3) to be carried.

Requirements
for lease or
contract

(5) Every lease, contract or notice of contract carried under subsection (3) shall clearly identify the vehicle involved, the parties thereto and their addresses, the operator of the vehicle and the operator’s CVOR certificate.

(6) A commercial motor vehicle operated under the authority of an owner-driver authority or single-source authority shall be deemed to be operated by the person or partnership that contracted with the holder of the licence.

Deemed operator

(7) For a commercial motor vehicle, for which an Ontario permit is not in force and which bears number plates from and is registered in another province or state, the motor vehicle permit may be substituted for a CVOR certificate for the purposes of subsections (2) and (3) if the operator of the commercial motor vehicle is not the holder of a CVOR certificate.

Substitution for CVOR certificate

15b.—(1) The Minister shall issue a CVOR certificate to every person who applies therefor in the prescribed form and meets the requirements of this Act and the regulations.

Certificates issued by Minister

(2) The Minister may refuse to issue a CVOR certificate to a partnership or corporation where a partner or officer thereof is the holder of, or a partner or officer of a holder of, a CVOR certificate that is under suspension or the subject of a fleet restriction under subsection 30 (1) or (2).

Refusal to issue

(3) The Minister may refuse to issue a CVOR certificate to an individual where the individual is a partner of a partnership or officer of a corporation that is the holder of a CVOR certificate that is under suspension or the subject of a fleet restriction under subsection 30 (1) or (2).

Idem

(4) No person, alone or in partnership, is entitled to hold more than one CVOR certificate.

One certificate only

15c. Every corporate holder of a CVOR certificate shall notify the Minister in writing, within fifteen days after any change in the name, address or persons constituting the officers of the corporation, of the change made.

Changes

15d. In the absence of evidence to the contrary, where there is no CVOR certificate, lease or contract applicable to a commercial motor vehicle, the holder of the plate portion of the permit for the vehicle shall be deemed to be the operator for the purposes of sections 15c and 15e.

Person deemed to be operator

15e.—(1) Every person who gives up possession of a commercial motor vehicle under a lease or contract shall retain a copy of the lease or contract in his place of business for a period of one year after the termination of the lease or contract.

Retaining lease or contract

- Where contravention of subs. 15a (2) or 30 (3e) (2) A police officer who has reason to believe that a commercial motor vehicle is being operated in contravention of subsection 15a (2) or 30 (3e) may,
- (a) detain the vehicle at any location that is reasonable in the circumstances; and
 - (b) seize the permits and number plates for the vehicle,
- until the vehicle can be moved without a contravention of this Act occurring.
- Permit suspended (3) Every permit seized under subsection (2) shall be deemed to be under suspension for the purposes of section 33 while it is in the custody of the officer seizing it.
- Lien (4) The costs incurred in detaining a vehicle under subsection (2) are a lien on the vehicle, which may be enforced in the manner provided by section 52 of the *Mechanics' Lien Act*.
- R.S.O. 1980, c. 261
- Court application (5) The person entitled to possession of a vehicle that is detained or the permits or plates of which are seized under subsection (2) may apply to the District Court for an order that the vehicle be released or the permits and plates returned, as the case may be.
- Security (6) On an application being made under subsection (5), the Court may make the order applied for on condition that a security, for the payment of any fine imposed, in such amount as is determined by the Court but not exceeding \$5,000 be deposited with the Court.
- Return of security (7) Every security deposited under subsection (6) shall be returned,
- (a) upon a final acquittal under all charges arising in connection with the seizure or detention;
 - (b) where a charge is not laid within six months after the seizure or detention, on the expiration of the six month period; or
 - (c) upon a conviction arising in connection with the seizure or detention, after withholding the amount of the fine.
- Offence **15f.**—(1) Every person who contravenes subsection 15a (3) or (4), section 15c or 15e or a regulation made under

section 15g is guilty of an offence and on conviction is liable to a fine of not more than \$500.

(2) Every person who contravenes subsection 15a (2) is ^{Idem} guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

15g. The Lieutenant Governor in Council may make ^{Regulations} regulations,

- (a) prescribing forms;
- (b) prescribing fees for the replacement of CVOR certificates;
- (c) classifying persons and vehicles and exempting any class of person or vehicle from any provision of section 15a and prescribing conditions for any such exemption;
- (d) prescribing the qualifications required to obtain and to hold CVOR certificates and authorizing the Minister to waive such qualifications as are specified in the regulations under the circumstances prescribed therein;
- (e) providing for the suspension or cancellation of CVOR certificates where the prescribed qualifications or conditions are not maintained;
- (f) respecting documents and information to be filed with or supplied to the Ministry prior to the issuance of CVOR certificates or as a condition of retention thereof by the holders of CVOR certificates;
- (g) requiring the attendance of certificate holders to show why a certificate should not be cancelled or suspended.

3. Subsection 21 (2) of the said Act is repealed and the following substituted therefor:

(2) Notwithstanding clause (1) (e), a person may hold a second driver's licence if the second licence is, ^{Second driver's licence permitted}

- (a) issued solely to permit the licensee to obtain experience in the driving of a motorcycle for the purpose

of qualifying for a driver's licence that authorizes him or her to drive a motorcycle; or

- (b) required by any other province or territory of Canada or any state of the United States of America and has been issued in compliance with the law of that province, territory or state.

Definition

(3) For the purposes of this section, "driver's licence" includes a licence issued by any other province or territory of Canada or by any state of the United States of America.

4.—(1) Subsections 30 (1), (2) and (3) of the said Act are repealed and the following substituted therefor:

Registrar
may suspend,
cancel
licence, etc.

(1) The Registrar may suspend or cancel,

- (a) the plate portion of a permit as defined in Part II;
- (b) a driver's licence; or
- (c) a CVOR certificate,

on the grounds of,

- (d) misconduct for which the holder is responsible, directly or indirectly, related to the operation or driving of a motor vehicle;
- (e) conviction of the holder for an offence referred to in subsection 184 (1) or (1a); or
- (f) any other sufficient reason not referred to in clause (d) or (e).

Restriction

(2) As an alternative to a suspension or cancellation under subsection (1), the Registrar may restrict the number of commercial motor vehicles that may be operated by a holder of a CVOR certificate during such period as the Registrar stipulates.

New licence,
etc., not to
be issued

(3) A person whose permit, licence or certificate is under suspension is not entitled to be issued a certificate, licence or plate portion of a permit, as the case may be.

Fleet
limitation
certificates

(3a) Where a restriction is imposed under subsection (2), the Registrar shall issue to the holder of the CVOR certificate fleet limitation certificates in a number equal to the number of vehicles permitted to be operated.

(3b) Every person whose permit for a motor vehicle is suspended or cancelled and who, while prohibited from having such a motor vehicle registered in his or her name, applies for or procures the issue or has possession of the plate portion of a permit for such a motor vehicle issued to him or her is guilty of an offence and on conviction is liable,

- (a) to a fine of not less than \$40 and not more than \$200 where the vehicle is not a commercial motor vehicle; or
- (b) to a fine of not less than \$100 and not more than \$1,000 where the vehicle is a commercial motor vehicle,

or to imprisonment for a term of not more than thirty days, or to both a fine and imprisonment.

(3c) Every person whose licence is suspended or cancelled and who, while prohibited from driving a motor vehicle, applies for or procures the issue to or has possession of any portion of a licence other than a Photo Card portion issued to him or her is guilty of an offence and on conviction is liable to a fine of not less than \$40 and not more than \$200 and to imprisonment for a term of not more than thirty days.

(3d) Every person whose CVOR certificate is suspended who applies for or procures the issue of a CVOR certificate to him or her is guilty of an offence and on conviction is liable, to a fine of not less than \$100 and not more than \$1,000 or to imprisonment for a term of not more than thirty days, or to both.

(3e) Every person,

- (a) in respect of whom a restriction is imposed under subsection (2) who operates a commercial motor vehicle in which a valid fleet limitation certificate is not carried; or
- (b) who operates a commercial motor vehicle without a permit or certificate or when his or her permit or certificate is under suspension,

is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

(3f) For the purposes of this section, "commercial motor vehicle" has the same meaning as defined in section 15a.

(2) Subsection 30 (4) of the said Act is amended by inserting after "Act" in the second line "*the Truck Transportation Act, 1988*".

5.—(1) Subsections 30a (6), (10), (11) and (12) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 72, section 1, are repealed and the following substituted therefor:

Intent of
suspension

(10) The suspension of a licence under this section is intended to safeguard the licensee and the public and does not constitute an alternative to any proceeding or penalty arising from the same circumstances or around the same time.

Duty of
officer

(11) Every officer who asks for the surrender of a licence under this section shall keep a written record of the licence received with the name and address of the person and the date and time of the suspension and, at the time of receiving the licence, shall return the Photo Card portion of the licence, if the licence consists of a Photo Card and Licence Card, and provide the licensee with a written statement of the time from which the suspension takes effect, the length of the period during which the licence is suspended, and the place where the licence or Licence Card portion thereof may be recovered.

Removal of
vehicle

(12) If the motor vehicle of a person whose licence is suspended under this section is at a location from which, in the opinion of a police officer, it should be removed and there is no person available who may lawfully remove the vehicle, the officer may remove and store the vehicle or cause it to be removed and stored, in which case, the officer shall notify the person of the location of the storage.

Cost of
removal

R.S.O. 1980,
c. 261

(12a) Where a police officer obtains assistance for the removal and storage of a motor vehicle under this section, the costs incurred in moving and storing the vehicle are a lien on the vehicle that may be enforced under the *Mechanics' Lien Act* by the person who moved or stored the vehicle at the request of the officer.

(2) Clause 30a (13) (a) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 21, section 5, is amended by inserting after "licence" in the second line "and a driver's licence issued by any other jurisdiction".

6. Subsection 44 (15) of the said Act is amended by inserting after "*Public Vehicles Act*" in the fourth line "*the Truck Transportation Act, 1988*".

7. The said Act is further amended by adding thereto, in Part V, the following section:

90a.—(1) In this section, “commercial motor vehicle” and “operator” have the meaning prescribed under this section and not as set out in this Act. Definitions

(2) Every operator shall establish a system to periodically inspect, repair and maintain all commercial motor vehicles and trailers under the operator’s control that are operated on a highway. Regular maintenance

(3) Every operator shall inspect, repair and maintain or cause to be inspected, repaired and maintained all commercial motor vehicles and trailers under the operator’s control in accordance with the prescribed vehicle component performance standards and the operator’s system for periodic inspections. Idem

(4) Every operator shall instruct every driver of commercial motor vehicles under the operator’s control to conduct or cause to be conducted a prescribed inspection of the commercial motor vehicles and trailers to be driven or towed by the driver prior to the motor vehicles being driven or the trailers being towed on a highway. Inspection

(5) No driver shall drive a commercial motor vehicle or tow a trailer on a highway unless the prescribed inspection of the vehicle or trailer has been conducted or caused to be conducted by that driver. Idem

(6) Every driver who reasonably believes or suspects that the state, condition or components of a vehicle or trailer that driver is about to or is driving or towing, as the case may be, on a highway do not meet the prescribed standards shall report the belief or suspicion to the operator. Reporting defects

(7) No driver shall drive a vehicle or tow a trailer on a highway if the driver determines as a result of an inspection that the state, condition or components of the vehicle or trailer do not meet the prescribed standards. Driving defective vehicle prohibited

(8) No operator shall permit a commercial motor vehicle to be driven or a trailer to be towed on a highway if the operator has reason to believe that the state, condition or components of the vehicle or trailer do not meet the prescribed standards. Idem

(9) Every operator, owner and driver of a commercial motor vehicle shall maintain or cause to be maintained such books and records as are prescribed. Operator’s duty

(10) Every driver shall carry the inspection report in respect of the prescribed inspection at all times while in Driver to carry inspection report

charge of a commercial motor vehicle on a highway and shall surrender the report to any police officer or officer appointed for the purpose of carrying out the provisions of this Act or the regulations made under this Act on demand of the officer.

Definition (11) In this section, “prescribed” means prescribed by the regulations made under this section.

Regulations (12) The Lieutenant Governor in Council may make regulations,

- (a) respecting the driving or operation of commercial motor vehicles and trailers;
- (b) governing the method and requirements for inspecting vehicles referred to in clause (a);
- (c) prescribing books and records that shall be kept by operators, owners and drivers of commercial motor vehicles;
- (d) requiring the retention of prescribed books and records by operators, owners and drivers of commercial motor vehicles and prescribing the information to be contained and the entries to be recorded therein and the places where they shall be maintained;
- (e) prescribing inspection, repair and maintenance standards for commercial motor vehicles and trailers;
- (f) prescribing vehicle component performance standards for commercial motor vehicles and trailers;
- (g) exempting any person or class of persons or any vehicle or class of vehicles from any requirement in this section or any regulation made under this section and prescribing conditions for any such exemption;
- (h) defining “commercial motor vehicle” and “operator” for the purposes of this section;
- (i) prescribing anything that is referred to in this section as prescribed.

Adoption by
reference

(13) Any regulation made under subsection (12) may adopt by reference in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code

or standard, or any regulation made by the Government of Canada or the United States of America.

(14) Every operator or owner who contravenes any provision in this section or the regulations made under this section is guilty of an offence and on conviction is liable, Offence
—operator,
owner

- (a) for a first offence, to a fine of not less than \$250 and not more than \$2,000; and
- (b) for each subsequent offence, to a fine of not less than \$500 and not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

(15) Every driver who contravenes any provision in this section or the regulations made under this section is guilty of an offence and on conviction is liable, —driver

- (a) for a first offence, to a fine of not less than \$100 and not more than \$500; and
- (b) for each subsequent offence, to a fine of not less than \$250 and not more than \$500 or to imprisonment for a term of not more than six months, or to both.

(16) An offence referred to in subsection (14) or (15) committed more than five years after a previous conviction for any offence under this section or the regulations made under this section is not a subsequent offence for the purposes of clause (14) (b) or (15) (b). Subsequent
offence

8. Subsection 104 (5) of the said Act is amended by striking out “produced” in the fifth line and inserting in lieu thereof “surrendered” and by inserting after “Act” where it occurs the first time in the seventh line “the *Truck Transportation Act, 1988*”.

9. The said Act is further amended by adding thereto the following section:

165a.—(1) In this section, “commercial motor vehicle” and “operator” have the meaning prescribed under this section and not as set out in this Act. Definitions

(2) No person shall drive a commercial motor vehicle on a highway except in accordance with this section and the regulations made under this section. Driving
restrictions

Daily log

(3) Every driver shall maintain a daily log and shall carry it at all times while in charge of a commercial motor vehicle on the highway.

Surrender of
daily log

(4) Every driver who is required under subsection (3) to carry a daily log shall surrender it to any police officer or officer appointed for the purpose of carrying out the provisions of this Act upon demand by the officer.

One daily
log only

(5) No driver shall make or have more than one daily log that records the same time period or overlapping time periods.

Operator's
duty

(6) No operator shall permit a person to drive a commercial motor vehicle on a highway except in accordance with this section or the regulations made under this section.

Regulations

(7) The Lieutenant Governor in Council may make regulations,

- (a) prescribing the books, logs and records that shall be kept by operators and drivers of commercial motor vehicles;
- (b) requiring the retention of books, logs and records, the information to be contained and the entries to be recorded therein and the places where they shall be kept;
- (c) prescribing hours of work, periods of rest and other requirements for the purpose of subsection (2), including prescribing different hours or periods for different types of work or driving;
- (d) exempting any person or class of persons or any vehicle or class of vehicles from any requirement in this section or any regulation made under this section and prescribing conditions for any such exemption;
- (e) defining "commercial motor vehicle" and "operator" for the purposes of this section.

Offence

(8) Every person who contravenes a provision of this section or a regulation made under this section is guilty of an offence and on conviction is liable,

- (a) for a first offence, to a fine of not less than \$250 and not more than \$2,000; and

- (b) for each subsequent offence, to a fine of not less than \$500 and not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

(9) An offence referred to in subsection (8) committed more than five years after a previous conviction for an offence under subsection (8) is not a subsequent offence for the purpose of clause (8) (b). Time limit for subsequent offence

10. Section 166 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 37, is further amended by adding thereto the following subsection:

(3) In addition to any liability of an owner incurred under subsection (1), the operator of a commercial motor vehicle, as defined in subsection 15a (1), is liable for loss or damage sustained by any person by reason of negligence in the operation of the commercial motor vehicle on a highway. Liability of operator of commercial motor vehicle

11.—(1) Subclause 179 (c) (iii) of the said Act is repealed and the following substituted therefor:

- (iii) a record of all licences, permits and CVOR certificates issued, suspended, revoked, cancelled or revived under this Act.

(2) Clause 179 (c) of the said Act is amended by striking out “and” at the end of subclause (v), by renumbering subclause (vi) as subclause (vii) and by adding thereto the following subclause:

- (vi) an operating record of every conviction of every CVOR certificate holder and the holder's agents and employees that is reported to the Registrar under section 184 and such other convictions, whether or not the certificate holder was the person convicted, as the Registrar considers useful for the purpose of the administration and enforcement of this Act, and

12. Section 181 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 15, section 12 and 1983, chapter 63, section 43, is further amended by adding thereto the following subsection:

Definition (5) In this section, "owner" includes operator as defined in section 15a or as deemed in section 15d.

13. Subsection 190 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 63, section 46, is amended by striking out "subsection 30 (2) or (3)" in the fourth line and inserting in lieu thereof "subsection 30 (3b), (3c), (3d) or (3e)".

14. Subsection 194a (1) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 13, section 17, is amended by inserting after "the" in the first line "*Truck Transportation Act, 1988*", by inserting after "service" in the seventh line "on the operator of the vehicle as defined in subsection 15a (1) or" and by inserting after "unless" in the eighth line "in the case of the owner".

15. The said Act is further amended by adding thereto the following section:

Inspection of
records

194b.—(1) An officer of the Ministry may, during normal business hours upon production of his or her designation as an officer, enter any place of business of a person required under this Act or the regulations to keep records for the purpose of inspecting those records.

Idem

(2) An officer of the Ministry, for the purpose of ensuring that the provisions of this Act and the regulations are being complied with, is authorized to inspect any records required to be kept under this Act or the regulations.

Copies

(3) An officer examining any records under this section may, on giving a receipt therefor, remove any record for the purpose of making copies thereof but the copying must be made quickly and the record promptly returned.

Idem

(4) Any copy made under subsection (3) and certified as a true copy by the person making it is admissible in evidence in any action, proceeding or prosecution as proof, in the absence of evidence to the contrary, of the record copied and its contents.

Obstruction
prohibited

(5) No person shall obstruct any officer from doing anything that he or she is authorized by this section to do or to withhold from the officer or conceal or destroy any record that the officer is authorized to examine or to copy.

Penalty

(6) Every person who contravenes subsection (5) is guilty of an offence and on conviction is liable to a fine of not less

than \$100 and not more than \$1,000 or to imprisonment for a term of not more than six months, or to both.

16. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

17. The short title of this Act is the *Highway Traffic Amendment Act, 1988*. Short title

Bill 87

An Act to amend the Ontario Highway Transport Board Act

The Hon. E. Fulton
Minister of Transportation



1st Reading December 17th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1. The definitions of “public commercial vehicle” and “public vehicle” are being deleted. They are not required in section 1.

SECTION 2. Provision is being made to provide members of the Board with remuneration and expenses.

SECTION 3. Section 16 of the Act gives the Board power to review any decision made by it. Currently, there are only two Acts under which it acts. These two Acts are being specified.

SECTION 4. With the proposed *Truck Transportation Act, 1987*, there would be a third Act under which the Board would act. The new sections 16a and 16b of the Act deal with the Board’s powers of review under the *Truck Transportation Act, 1987* as well as the *Ontario Highway Transport Board Act*. The new section 16c of the Act is an added area in respect of which the Board may hold hearings. The new section 16d provides for notice of hearings to be given to the Minister.

SECTION 5. The specific reference to two Acts is being deleted. These are not necessary and the proposed *Truck Transportation Act, 1987* makes the specific references too restrictive. Subsection 19 (3) deals with the recording of oral evidence.

SECTION 6. Section 22 of the Act provides for petitions to the Lieutenant Governor in Council. The effect of the amendment is to preclude such petitions in respect of decisions on matters arising under the proposed *Truck Transportation Act, 1987*.

SECTION 7. The new subsection 25 (1a) authorizes the Board to determine its own practice and procedures to the extent that they are not determined by regulations. The new subsection 25 (1b) authorizes the Board to call upon expert evidence for assistance.

SECTION 8. Self-explanatory.

Bill 87

1987

**An Act to amend the
Ontario Highway Transport Board Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clauses 1 (c) and (d) of the *Ontario Highway Transport Board Act*, being chapter 338 of the Revised Statutes of Ontario, 1980, are repealed.

2. Section 2 of the said Act is amended by adding thereto the following subsection:

(3) The members shall receive such remuneration and expenses as the Lieutenant Governor in Council determines. Remuneration

3. Section 16 of the said Act is amended by inserting after “application” in the second line “with respect to matters arising under the *Public Commercial Vehicles Act* or the *Public Vehicles Act*”.

4. The said Act is amended by adding thereto the following sections:

16a.—(1) The Board may, if it considers it appropriate to do so, or shall, on the direction of the Minister or the Lieutenant Governor in Council, rehear any application or reconsider any decision, order, declaration or ruling made by it under the *Truck Transportation Act*, 1987. Review re 1987, c. ...

(2) After a rehearing or reconsideration under subsection (1), the Board may amend, revoke or confirm the decision, order, declaration or ruling. Idem

(3) The powers of the Board under this section and section 16 are concurrent with the powers of the Minister related to the suspension and cancellation of operating licences. Concurrent powers

Appeal to
Board

16b.—(1) Any person objecting to a decision of the Board,

1987, c. ...

(a) made as a result of a hearing under the *Truck Transportation Act, 1987* to conduct a public interest test; or

(b) made under this Act,

may, with the consent of the Board, appeal the decision.

Idem

(2) Where the grounds for an appeal under subsection (1) are that new facts have arisen since the hearing or that the decision was based on an error of fact, the appeal shall be heard by the same members who made the original decision.

Idem

(3) Where the grounds for an appeal are other than those set out in subsection (2), the appeal shall be heard by members who were not involved in the original decision.

Interim
licence

(4) The Board, when it consents to an appeal under subsection (1), may recommend that the Minister grant an interim operating licence that is valid until the final disposition of the appeal.

Reviewing
operations
and conduct

16c.—(1) The Board may, with the prior approval of the Minister, if it considers it appropriate to do so, or shall, on the direction of the Minister, hold a hearing,

R.S.O. 1980,
c. 198

(a) into the operation of any transportation service conducted by means of commercial motor vehicles, within the meaning of section 15a of the *Highway Traffic Act*; or

(b) into the conduct of any holder of a Commercial Vehicle Operator's Registration Certificate,

to determine whether the operation or conduct,

R.S.C. 1970,
c. M-14

(c) contravenes the provisions of the *Truck Transportation Act, 1987*, *Motor Vehicle Transport Act* (Canada) or the regulations thereunder; or

(d) constitutes a persistent breach of contracts between the provider of the service or certificate holder and shippers.

Order by
Board

(2) When, after a hearing under subsection (1), the Board determines that there has been a contravention, it may order,

- (a) that the operation of the transportation service in the manner that caused the contravention stop;
- (b) that the conduct of the holder of the Commercial Vehicle Operator's Registration Certificate that constituted the contravention stop; or
- (c) if the operator of the transportation service is the holder of an operating licence, that the licence be amended to expire upon a specified date.

(3) Subsection (2) does not apply where the hearing is the result of a direction by the Minister if, at the time of the direction, the Minister also directed the Board to report its findings to the Registrar of Motor Vehicles.

Report to
Registrar

16d. The Board shall give the Minister thirty days notice of every hearing under section 16a.

Notice to
Minister

5. Subsection 19 (3) of the said Act is amended by striking out "under the *Public Vehicles Act* or the *Public Commercial Vehicles Act*" in the fourth and fifth lines.

6. Section 22 of the said Act is amended by inserting after "Board" in the fourth line "in respect of a matter arising under the *Public Vehicles Act* or the *Public Commercial Vehicles Act*".

7. Section 25 of the said Act is amended by adding thereto the following subsections:

(1a) Subject to regulations made under subsection (1), the Board may determine its own practice and procedure.

Idem

(1b) The Board may appoint from time to time one or more persons who may be called by the Board to give evidence of opinion and fact, subject to cross-examination, before the Board to assist it during the hearing of any matter.

Expert
evidence

8. Section 26 of the said Act is amended by adding thereto the following subsection:

(2) The Board may order any parties to a hearing before it to pay the costs of any of the other parties involved or may make any other order with respect to costs that under all the circumstances it considers just.

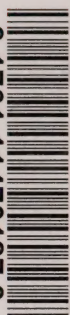
Costs

Commence-
ment

9. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

10. The short title of this Act is the *Ontario Highway Transport Board Amendment Act, 1987*.



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